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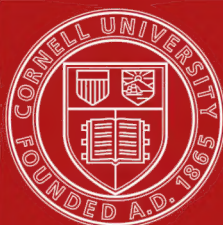
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AMERICAN CONSTITUTIONS:
COMPRISING THE
CONSTITUTION
OF
EACH STATE IN THE UNION,
AND OF THE
UNITED STATES,
WITH THE DECLARATION OF INDEPENDENCE AND ARTICLES OF CONFEDERATION;
EACH ACCOMPANIED BY A
HISTORICAL INTRODUCTION AND NOTES,
TOGETHER WITH A
CLASSIFIED ANALYSIS OF THE CONSTITUTIONS,
ACCORDING TO THEIR SUBJECTS, SHOWING BY COMPARATIVE ARRANGEMENT, EVERY
CONSTITUTIONAL PROVISION NOW IN FORCE IN THE SEVERAL STATES; WITH
REFERENCES TO JUDICIAL DECISIONS, AND AN ANALYTICAL INDEX.
ILLUSTRATED BY CAREFULLY ENGRAVED FAC-SIMILES OF THE GREAT SEALS
OF THE UNITED STATES, AND OF EACH STATE AND TERRITORY.

BY FRANKLIN B. HOUGH.

IN TWO VOLUMES.

VOL. I.

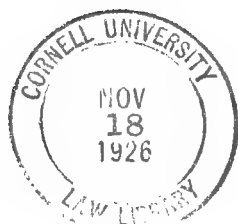
ALBANY:
WEED, PARSONS & COMPANY.
1871.

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PREFACE.

SINCE the appearance of the "New York Convention Manual," which embraced the Constitutions of the several States as they were in 1867, thirteen of the States have adopted new Constitutions prepared by Conventions, and thirteen others have ratified important amendments recommended by their Legislatures. During the same period, two amendments to our National Constitution, involving principles that may materially affect the future destinies of the Country, have been sanctioned by a sufficient number of the States to make them binding upon the whole; and measures tending to the further revision of their fundamental laws are now in progress in several of the States.

These extraordinary changes are in part incident to the reconstruction of State governments in the Southern States; but, aside from this, there are many evidences of a general and increasing interest in the study of questions relating to the theory and operation of government; the restrictions that should be laid upon its various Departments, the powers that should be exercised by each, and the rights that should be secured to the citizen. Amidst these changes, it may often become a serious question, as to whether proposed innovations are in reality reforms, and whether, among the models of Constitutional law that have borne the test of trial through long periods of time, there may not often be found provisions that might safely be adopted in the revision of existing Constitutions, or in the preparation of new ones.

It has been our purpose in this work, not only to give the present Constitutions of the several States and of the United States, but also to trace their origin and progress, from colonial or territorial Dependencies, down through their principal changes to the present time. In following the leading features of their civil history, we have noticed only such events as have had a close relation to their forms of government or extent of jurisdiction ; and, in doing so, have remarked, at times, the little incidents, which like obstacles in the sources of mountain streams, may have given them their first direction, and thus have determined their future course. We have also endeavored to present in every instance, where it was attainable, and in many cases through the courtesy of Secretaries of States, from their original records, the votes upon the various constitutional questions that have from time to time been submitted to the electors, with the design of showing the degree of acceptability with which these proposals were received, and to what extent at first, and afterwards upon trial, they were sanctioned by the public favor. The changes in boundaries and jurisdiction of the various States and Territories, besides being carefully noted in the introductory sketches of each, will be found clearly illustrated in the Historical Map accompanying the second volume. A summary of the several Articles and Sections is given at the beginning of each Constitution, and a list of the names of the Delegates who prepared them, has been added in nearly every instance.

In writing the historical statements concerning the several States, the dates and facts mentioned, have in most cases been derived from official sources, and the text of the Constitutions, in every instance, has been taken from authorized editions. The sketches of Territories include descriptions of their original and present boundaries, and such events as have thus far marked their changes of government, and the

proceedings that have been had, towards effecting a State organization.

The classified Analysis of Constitutional Provisions, instead of following the order of arrangement of a particular State, as in a work of similar kind prepared by the editor of these volumes, by request of the New York Constitutional Convention of 1867, has been based upon a classification which appeared to us most natural, and which, it is hoped, will be found convenient and useful. The references in every case point to the State, Article and Section; the phraseology given is that of the Constitutions themselves, unless enclosed in brackets; and where more than one reference is made to the same section or clause, the States are arranged in their alphabetical order.

The table of references to decisions and opinions relating to the Constitution of the United States, and to analogous features in the Constitutions of the several States, is arranged in the order of the several Articles, Sections and Clauses of the former, without quoting the particular words or clauses to which they refer, or the names of the cases in which they were rendered. The conciseness of this arrangement will not, it is believed, render it less valuable for use, while the pages were by this plan relieved of the multitude of notes and references which would have been otherwise necessary, had they been inserted in the places to which they refer.

The various information contained in the Appendix, will be found closely related to the subject of Constitutions, and we trust both instructive and reliable. The Index has been arranged with a view to its convenience for reference, and will either directly, or through the Classified Analysis, lead to the most minute subdivision of subjects embraced in these volumes.

In presenting a series of carefully engraved *fac-similes* of the seals of the United States and of the several States

and Territories, the artist has had before him an impression of each seal from the official die, with directions to follow it in size and detail with the utmost exactness; and in most cases the official description has been at hand, to guide him in doubtful points. We gratefully acknowledge the courtesy of the several Governors and Secretaries, of States and Territories, who have furnished impressions of the seals in their custody for this use.

As an apology for the delay that has occurred in the publication of this work, we would mention the fact that it was stopped at an advanced stage by the fire which destroyed the printing house of the publishers on the 7th of April last, and that it was resumed as soon thereafter as the necessary arrangements for re-engraving and reprinting could be made.

F. B. H.

LOWVILLE, N. Y., *December* 20, 1871.

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MEASURES WHICH PRECEDED AND LED TO THE DECLARATION OF INDEPENDENCE.

THE earliest instance of an association of the English colonies for mutual defense, and the promotion of common interests, occurred in 1643, when the colonies of Connecticut, New Haven, Massachusetts and Plymouth, entered into a league under the name of "The United Colonies of New England." It continued in force for more than forty years, proving an efficient means for uniting the colonists in repressing Indian hostilities, and in resisting the encroachments of other European colonies unfriendly to the English. By the articles of this league, each colony was represented by two commissioners, who assembled by rotation in the respective colonies, and were empowered to pass ordinances for their general welfare. In case of invasion, each colony was bound to furnish, upon application, a due proportion of aid in men and means for the common defense.

The occasion of Indian treaties led to meetings of the governors or commissioners of various colonies for consultation, at various times, as in 1689, 1722 and 1746, at Albany, and in 1744 at Lancaster.

But the most important of these colonial conventions was one that met at Albany, June 19, 1754, composed of twenty-five commissioners, of whom four were from New Hampshire, five from Massachusetts, three from Connecticut, two from Rhode Island, five from New York, four from Pennsylvania and two from Maryland. Virginia and New Jersey, although expressly invited, did not send delegates. Their prominent object was to confirm the friendship of the Five Nations toward the English, in view of the impending war against Canada; yet the commissioners of Massachusetts were further authorized to enter into articles of union and confederation for their common defense and mutual interests, as well in time of peace as in war. This subject being deemed within their province, a committee of one from each colony, viz.: Thomas Hutchinson of Massachusetts, Theodore Atkinson of New Hampshire, William Pitkin of Connecticut, Stephen Hopkins of Rhode Island, William Smith of New York, Benjamin Franklin of Pennsylvania, and Benjamin Tasker of Maryland, was appointed to draw up a plan. This committee reported a draft, mainly written by Franklin, which they proceeded to discuss and agree upon. It was designed to embrace all the English colonies, from New Hampshire to South Carolina, and was submitted to the English Parliament and to the Assemblies of the several colonies for their approval. The debates continued twelve days, and the convention finally adjourned July 11th.

Under this "Plan of Union," each colony was to retain its own charter and laws, subject only to such changes as might be made under the Union. The general government was to be vested in a President-General, appointed by the crown, and a Grand Council of forty-eight members, elected by the colonial assemblies for a term of three years. At first, Massachusetts and Virginia were each to have seven members, Pennsylvania six, Connecticut five, New York, Maryland, North Carolina and South Carolina, each four, New Jersey three, and New Hampshire and Rhode Island, each two. At the end of three years, the

number was to be equalized on the basis of money paid into the common treasury, but not so as to give any colony less than two, or more than seven members.

The Grand Council was to meet annually, or oftener if necessary, and might be called at any time, upon the written request of seven members. The first meeting was to be at Philadelphia, and after that as might be appointed. At any meeting, twenty-five were to form a quorum, provided that each colony had at least one member present. They were to choose their own speaker, who was to fill the office of President-General in case of vacancy, and they were not to be dissolved, prorogued, or kept in session more than six weeks at a time, without their own consent, or the order of the crown. All acts were to be approved by the President-General, and might be disapproved, within three years after presentation, by the crown. The laws that might be passed were not to be repugnant, but, as near as might be, agreeable, to the laws of England.

The Grand Council could raise and pay troops, build forts and ships for the protection of trade and commerce, regulate Indian trade, and conduct general affairs; and for this end they could levy duties and taxes in the most convenient manner, and so as to discourage luxuries, rather than to burden industry. The President-General, with the advice of the Grand Council, was to conduct Indian treaties (but not in particular colonies), purchase lands, found settlements in new territories, in the king's name; make war and conclude peace. All military and civil appointments required the concurrence of the President-General and the Grand Council, the nominations of the former being made by the President-General, and of the latter by the Grand Council. A General Treasurer was to be appointed, and, if necessary, a particular treasurer for each colony.

This project was rejected by every one of the colonies, because it required a surrender of too much of their powers, and it met with no favor in England when laid before the king and the Board of Trade. The colonies had already excited the jealousy of the mother country, by appearing conscious of strength, and ambitious for independence, and no measure tending to unite and consolidate their power could be expected to find favor with the English government.

The passage of a stamp act by Parliament, in 1765, excited the most energetic remonstrances, and led to acts of violence against those attempting to carry it into effect. In June of that year, the House of Representatives in Massachusetts, with the approbation of the governor and council, addressed a circular to the speakers of the several Houses of Representatives or Burgesses in the other colonies, recommending that delegates should be appointed to meet at New York, on the first Tuesday of October of that year, to consult together on their present circumstances, and the difficulties to which they must be reduced by the late act of Parliament.

This convention was composed of twenty-seven delegates, of whom three were from Massachusetts, two from Rhode Island, three from Connecticut, five from New York, three from New Jersey, three from Pennsylvania, two from Delaware, three from Maryland, and three from South Carolina. The colonies of New Hampshire, Virginia, North Carolina and Georgia were not represented, but their assemblies expressed sympathy with their measures. The convention first drew up a Declaration of Rights, in which they asserted that the colonies were entitled to all the rights and liberties of natural-born subjects of the realm, the most essential of which were the exclusive right to tax themselves, and the right of trial by jury. They addressed respectful and loyal, yet firm and positive, memorials to the king and both Houses of Parliament, and recommended to the several colonial assemblies that they should appoint special agents

to solicit a redress of grievances. They remained in session from the 7th to the 24th of October, 1765.

A temporary relief was granted in answer to these memorials, and in compliance with the urgent appeals made by the several colonies. The stamp act was repealed, but the absolute right to tax the colonies was still maintained by the English Parliament, and during the ten years which passed before the war of the revolution actually began, the way was gradually prepared for that great event.

In 1772 and 1773, committees of correspondence began to be formed throughout the colonies, and on the 17th of May, 1774, the first distinct suggestion of a Continental Congress, by any body of men, was made in town meeting at Providence, Rhode Island. The General Assembly was requested to use its influence "for promoting a Congress, as soon as may be, of the representatives of the General Assemblies of the several colonies and provinces of North America, for establishing the firmest union, and adopting such measures as to them shall appear the most effectual, to answer that important purpose; and to agree upon proper measures for executing the same."

On the 26th of May, the members of the House of Burgesses, in Virginia, met at an inn in Williamsburgh, their house having been dissolved the day before by the governor, and after preparing an address to the American people, they authorized a correspondence with other colonial committees and suggested a General Congress. On the 17th of June, 1774, the House of Representatives of Massachusetts, declared that a meeting of committees from the several colonies was highly expedient and necessary, and appointed the 1st of September as the time, and Philadelphia as the place, for the holding of such a Congress. This recommendation of Virginia and appointment of Massachusetts met with general favor, and delegates were appointed in twelve of the colonies, as follows:

Massachusetts, June 17th. By the House of Representatives.

Maryland, June 22d. By a meeting of the committees appointed by the several counties.

Connecticut, July 13th. By the committee of correspondence, under authority of an act of the House of Representatives of June 3d.

New Hampshire, July 21. By deputies appointed by the several towns at a meeting held at Exeter for this purpose.

Pennsylvania, July 22d. By the General Assembly.

New Jersey, July 23d. By committees appointed by the several counties for this purpose.

New York, July 27th. By election in seven wards of New York city, confirmed by the committees of several districts in Westchester county, Albany city and county, and Dutchess county. Separate delegates were chosen in Suffolk and Kings counties.

Virginia, August 1st. By a general meeting of delegates from the different counties.

Delaware, August 1st. By the representatives of the freemen, convened by circular letters from the speaker of the House, but not legally organized in a legislative capacity.

South Carolina, August 2d. By the House of Commons of the General Assembly.

Rhode Island, August 10th. By the General Assembly.

North Carolina, August 15th. By a general meeting of the deputies of the inhabitants.

The first Congress, thus chosen, organized on the 5th of Sept. 1774, at Philadelphia, and remained in session until the 26th of October. As the representa-

tion of the several colonies could not be equalized upon any certain basis of population or wealth, it was decided that each colony should have one vote. This rule was continued through the whole period of the Continental Congress, and until the present constitution was adopted.

This Congress, with great unanimity, proceeded to adopt a Declaration of Rights, substantially like that of 1765, in which they declared the colonies entitled to the common law of England, and to the benefit of such English statutes as were in force when they emigrated. To secure a full and absolute acknowledgment of these rights, they agreed, on behalf of themselves and their constituents, upon a pledge of commercial non-intercourse with Great Britain, and of non-consumption of the manufactures and articles of trade of that country, to commence on the 1st of December following, and to continue in force until their grievances should be redressed. They also agreed not to purchase any slave imported after that date, but that they would wholly discontinue the slave trade, and neither be concerned in it themselves, nor hire their vessels, nor sell their commodities or manufactures, to those who were thus engaged. They addressed letters to the inhabitants of the other English colonies, and to the people of Great Britain, and a petition to the king.

A second Continental Congress assembled in pursuance of the recommendation of the former one, at Philadelphia, May 10, 1775, at which all of the thirteen colonies were represented by delegates chosen principally by provincial conventions, but in some cases by the General Assemblies. The war had now actually begun, and the attention of Congress was at once directed to the organization of measures for the public defense. The hope of reconciliation gradually gave way to a desire for independence, and on the 7th of June, 1776, certain resolutions of independence were moved in Congress. These were discussed in committee of the whole on the 8th and 10th, when the first resolution was postponed until the 1st of July, and in the mean while, that no time be lost, in case the Congress should agree thereto, a committee was appointed to prepare a declaration to the effect of the said first resolution, which was in these words: "That these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown; and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved."

The committee for preparing the Declaration was appointed on the 11th, and consisted of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman and Robert R. Livingston. They reported a draft on the 28th, which is now known to have been almost entirely from the pen of Jefferson. Congress adopted the resolution for independence on the 2d of July, and, on the 4th, publicly and solemnly published and declared the same.

DECLARATION OF INDEPENDENCE.

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasions from without and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies without the consent of our Legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war—in peace friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions,

do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, FREE AND INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is and ought to be totally dissolved; and that as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honour.

JOHN HANCOCK.

New Hampshire.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

Massachusetts Bay.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

Rhode Island, &c.

Stephen Hopkins,
William Ellery.

Connecticut.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

New York.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

New Jersey.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

Pennsylvania.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilson,
George Ross.

Delaware.

Cæsar Rodney,
George Read,
Thomas McKean.

Maryland.

Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carroll-

Virginia.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, Jr.,
Francis Lightfoot Lee,
Carter Braxton.

North Carolina.

William Hooper,
Joseph Hewes,
John Penn.

South Carolina.

Edward Rutledge,
Thomas Heyward, Jr.,
Thomas Lynch, Jr.,
Arthur Middleton.

Georgia.

Button Gwinnett,
Lyman Hall,
George Walton.

CONFEDERATION OF THE STATES.

On the 11th of June, 1776, upon the appointment of a committee by the Continental Congress to prepare a Declaration of Independence, a resolution was passed for the appointment of another committee to prepare and digest the form of a Confederation to be entered into between the colonies. Upon the 12th, this committee was appointed, consisting of one member from each colony, as follows :

New Hampshire—Josiah Bartlett.

Massachusetts—Samuel Adams.

Rhode Island—Stephen Hopkins.

Connecticut—Roger Sherman.

New York—Robert R. Livingston.

Pennsylvania—John Dickinson.

Delaware—Thomas McKean.

Maryland—Thomas Stone.

Virginia—Thomas Nelson.

North Carolina—Joseph Hewes.

South Carolina—Edward Rutledge.

Georgia—Button Gwinnett.

Francis Hopkinson was appointed June 28th, to represent *New Jersey* upon this committee.

The task was delicate and difficult ; but on the 17th of November, 1777, after long discussion and many delays, the Articles of Confederation, as given in the subsequent pages, were agreed upon, and on the 17th were sent out to the States with the following circular letter :

“ IN CONGRESS, YORK-TOWN, *November 17th, 1777.*

“ Congress having agreed upon a plan of Confederacy for securing the freedom, sovereignty and independence of the United States, authentic copies are now transmitted for the consideration of the respective legislatures.

“ This business equally intricate and important, has in its progress been attended with uncommon embarrassments and delay, which the most anxious solicitude and persevering diligence could not prevent. To form a permanent Union, accommodated to the opinion and wishes of the delegates of so many States, differing in habits, produce, commerce and internal police, was found to be a work which nothing but time and reflection, conspiring with a disposition to conciliate, could mature and accomplish.

“ Hardly is it to be expected that any plan, in the variety of provisions essential to our Union, should exactly correspond with the maxims and political views of every particular State. Let it be remarked, that after the most careful inquiry and the fullest information, this is proposed as the best which could be adapted to the circumstances of all ; and as that alone, which affords any tolerable prospect of general ratification.

“ Permit us then earnestly to recommend these Articles to the immediate and dispassionate attention of the Legislatures of the respective States. Let them be candidly reviewed under a sense of the difficulty of combining in one general system the various sentiments and interests of a continent divided into so many sovereign and independent communities, under a conviction of the absolute necessity of uniting all our councils and all our strength to maintain and defend our common liberties : let them be examined with a liberality becoming brethren and

fellow-citizens surrounded by the same eminent dangers, contending for the same illustrious prize, and deeply interested in being forever bound and connected together by ties the most intimate and indissoluble; and finally, let them be adjusted with the temper and magnanimity of wise and patriotic legislators, who, while they are concerned for the prosperity of their own more immediate circle, are capable of rising superior to local attachments, when they may be incompatible with the safety, happiness and glory of the general confederacy.

"We have reason to regret the time which has elapsed in preparing this plan for consideration; with additional solicitude we look forward to that which must be necessarily spent before it can be ratified. Every motive loudly calls upon us to hasten its conclusion.

"More than any other consideration, it will confound our foreign enemies, defeat the flagitious practices of the disaffected, strengthen and confirm our friends, support our public credit, restore the value of our money, enable us to maintain our fleets [and] armies, and add weight and respect to our councils at home and to our treaties abroad.

"In short, this salutary measure can no longer be deferred. It seems essential to our very existence as a free people, and without it we may be constrained to bid adieu to independence, to liberty and safety—blessings, which from the justice of our cause and the favor of our Almighty Creator visibly manifested in our protection, we have reason to expect, if in an humble dependence on His Divine Providence we strenuously exert the means which are placed in our power.

"To conclude, if the Legislature of any State shall not be assembled, Congress recommend to the Executive authority to convene it without delay; and to each respective Legislature it is recommended to invest its delegates with competent powers, ultimately in the name and behalf of the State, to subscribe Articles of Confederation and perpetual Union of the United States; and to attend Congress for that purpose on or before the tenth day of March next."

The thirteen Articles of Confederation were agreed to by the thirteen States on the following dates, and authority was given to their several delegates to ratify the same in Congress. New Hampshire, New York, Virginia, Delaware and North Carolina, proposed no amendments, excepting that New York added a proviso that the articles should not be considered as binding until all the States had agreed to them. Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Maryland, South Carolina and Georgia, proposed amendments, which were not adopted.

Dates of adoption of the Articles of Confederation by the States.

South Carolina,.....	Feb. 5, 1778	Massachusetts,....	March 10, 1778
New York,.....	Feb. 6, 1778	North Carolina, ...	April 5, 1778
Rhode Island,.....	Feb. 9, 1778	New Jersey,.....	Nov. 19, 1778
Connecticut,.....	Feb. 12, 1778	Virginia, ...	Dec. 15, 1778
Georgia, ...	Feb. 26, 1778	Delaware, ...	Feb. 1, 1779
New Hampshire, ...	March 4, 1778	Maryland, ...	Jan. 30, 1781
Pennsylvania, ...	March 5, 1778		

The ratification having been completed by all of the States, the event was formally announced to the public March 1, 1781. The revolutionary form of government, begun in 1774, thus terminated on this date, and the United States entered upon a new form—the Confederate.

ARTICLES OF CONFEDERATION

AND PERPETUAL UNION BETWEEN THE STATES

SUMMARY.

PREAMBLE.

ARTICLE 1. Style of Confederacy.

ART. 2. Each State retains all powers not expressly delegated to Congress.

ART. 3. Obligations and purposes of the league of the States.

ART. 4. Freedom of intercourse between the States — surrender of fugitives from justice — Records, acts, and judicial proceedings of Courts to be received with full faith and credit by other States.

ART. 5. Congress — how organized and maintained — each State to have one vote — privileges of delegates.

ART. 6. No State may send embassies or make treaties — persons holding office not to accept presents, emoluments, or titles from foreign States — nor shall titles of nobility be granted — no two or more States to make treaties without consent of Congress — no State duties to interfere with foreign treaties — restriction upon naval armaments and military forces — militia — arms and munitions — war powers limited and defined.

ART. 7. Military appointments.

ART. 8. Equalization of war charges and expenses for the common defense — based upon the value of land and improvements thereon — taxes to be levied by States.

ART. 9. Powers of Congress — declaring peace and war — holding treaties — captures and prizes — letters of marque and reprisal — courts for trial of piracies and felonies on high seas — appeals in cases of captures.

Differences between States — mode of choosing commissioners or judges — private right of soil claimed under two or more States — coining money — weights and measures — Indian affairs — post routes — army — navy — committee of the States — other committees — civil officers — president — public expenses — borrowing money — bills of credit — land and naval forces — quotas based upon a census — States to raise and equip men at expense of United States — enumeration of measures requiring the assent of a majority of the States — adjournments of Congress — journals — copies of proceedings to be furnished to States if desired.

ART. 10. Powers of the Committee of the States.

ART. 11. Canada allowed to join the Union — other colonies to require the assent of nine States.

ART. 12. United States pledged for payment of bills of credit and borrowed moneys.

ART. 13. States bound by decisions of Congress — union to be perpetual — changes in Articles to be agreed to by every State — ratification and pledge.

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE THE UNDERSIGNED DELEGATES OF THE STATES AFFIXED TO OUR NAMES, SEND GREETING:—

Whereas the Delegates of the United States of America in Congress assembled, did on the 15th day of November, in the year of our Lord 1777, and in the Second Year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz.:

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES OF NEW-HAMPSHIRE, MASSACHUSETTS-BAY, RHODE ISLAND AND PROVIDENCE PLANTATIONS, CONNECTICUT, NEW YORK, NEW JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA AND GEORGIA.

ARTICLE I. The style of this Confederacy shall be "The United States of America."

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States (paupers, vagabonds, and fugitives from justice excepted) shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the Governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense.

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.

ARTICLE V. For the more convenient management of the general interest of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a

power reserved to each State, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven, members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees or emoluments of any kind.

Each State shall maintain its own delegates in any meeting of the States, and while they act as members of the Committee of the States.

In determining questions in the United States in Congress assembled each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any Court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

ARTICLE VI. No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with, any king, prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulation in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary, by the United States in Congress assembled, for the defense of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently

armed and accoutered, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted: nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ARTICLE VII. When land forces are raised by any State for the common defense, all officers, of or under the rank of colonel, shall be appointed by the legislature of each State respectively, by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII.¹ All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States in Congress assembled.

¹ The Continental Congress recommended, April 18, 1783, the following changes in Article VIII, which were sent out with an address setting forth the necessity of the change; but these amendments were never formally adopted:

"ARTICLE VIII. All charges of war, and all other expenses that have been or shall be incurred for the common defense, or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State, which number shall be triennially taken, and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States in Congress assembled."

ARTICLE IX. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article — of sending and receiving ambassadors — entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever — of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated — of granting letters of marque and reprisal in times of peace — appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislature or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges, to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three

persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the Supreme or Superior Court of the State, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:" provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more States, whose jurisdictions as they may respect such lands, and the States which passed such grants are adjusted the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States¹—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians, not members of any of the States: provided that the legislative right of any State within its own limits be not infringed or violated—establishing or regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the

¹ The Superintendent of Finance, on the 15th of January, 1782, submitted to the Continental Congress a letter touching the establishment of a mint, which was referred to a committee, and the Superintendent of Finance was directed to prepare and report a plan for that purpose.

Congress, on the 6th July, 1785, fixed the money unit of the United States as the dollar, and resolved that the several pieces of money should increase in a decimal ratio, and on the 8th of August, 1786, they fixed the proportion of alloy to be used in coins, the names, weights and values of coins, the mint prices allowed for metals used in coinage, and the device that should be stamped upon the larger gold pieces. Congress at this time ordered the Board of Treasury to report the draft of an ordinance for the establishment of a mint, which was considered and passed on the 16th of October, 1786.

United States, excepting regimental officers — appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States — making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated, “a Committee of the States,”¹ and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction — to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years—to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses — to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted — to build and equip a navy — to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm and equip them in a soldierlike manner, at the expense of the United States; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: But if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a,

¹ As Congress was about to adjourn in June, 1784, for a recess until November, a Committee of the States was appointed, and their powers defined. The members, however, soon divided into parties, and then abandoned their post, leaving the government without a visible head. This was the first and last trial of this expedient for conducting the public business.

war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ARTICLE X. The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress, as the United States in Congress assembled by the consent of nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ARTICLE XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ARTICLE XII. All bills of credit emitted, moneys borrowed and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE XIII. Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confed-

eration shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislature of every State.

And whereas, it hath pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union: *Know ye*, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the union shall be perpetual. In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord, 1778, and in the 3d year of the Independence of America.

Josiah Bartlett,	John Wentworth, Jun., August 8th, 1778.	{ On the part and behalf of the State of <i>New Hampshire</i> .
John Hancock, Samuel Adams, Elbridge Gerry, William Ellery, Henry Merchant,	Francis Dana, James Lovell, Samuel Holton, John Collins,	{ On the part and behalf of the State of <i>Massachusetts-Bay</i> .
Roger Sherman, Samuel Huntington, Oliver Wolcott, James Duane, Francis Lewis,	Titus Hosmer, Andrew Adam, William Duer, Gouverneur Morris,	{ On the part and behalf of the State of <i>Connecticut</i> .
John Witherspoon,	Nathaniel Scudder,	{ On the part and behalf of the State of <i>New Jersey</i> , November 26th, 1778.
Robert Morris, Daniel Roberdeau, Jonathan Bayard Smith, Thomas McKean, Feb. 12, 1779. John Dickinson, May 5, 1779.	William Clingan, Joseph Reed, 22d July, 1778. Nicholas Van Dyke,	{ On the part and behalf of the State of <i>Pennsylvania</i> .
John Hanson, March 1st, 1781.	Daniel Carroll, March 1st, 1781.	{ On the part and behalf of the State of <i>Maryland</i> .
Richard Henry Lee, John Banister, Thomas Adams,	John Harvie, Francis Lightfoot Lee,	{ On the part and behalf of the State of <i>Virginia</i> .
John Penn, July 21st, 1778.	Cornelius Harnett, John Williams,	{ On the part and behalf of the State of <i>North Carolina</i> .
Henry Laurens, William Henry Drayton, John Matthews,	Richard Hutson, Thomas Heyward, Jun.,	{ On the part and behalf of the State of <i>South Carolina</i> .
John Walton, 24th July, 1778.	Edward Telfair, Edward Langworthy,	{ On the part and behalf of the State of <i>Georgia</i> .

FORMATION AND ADOPTION OF THE FEDERAL CONSTITUTION.

The Articles of Confederation had scarcely been adopted when their defects became apparent, and although they might serve their purpose in some degree so long as the States were menaced by common dangers, yet, in time of peace, they were soon found altogether inadequate for the wants of an effective government. Congress had no power to enforce its own ordinances, and it could only recommend such measures as it deemed important, leaving the several States to adopt them, if they found it convenient to do so. An effort was early made to obtain a concession of power to Congress sufficient to meet the necessities of the government, and urgent appeals were made to the patriotism of the States, for the maintenance of the public faith at home and abroad, but without satisfactory result.¹

The legislature of New York, by concurrent resolution, passed July 21, 1782, declared it essential that there should be a conference on the whole subject of the Confederation, and recommended that a general convention should be called to amend and revise the Articles.

Early in 1785, commissioners were appointed by the States of Maryland and Virginia, to form a compact relative to the navigation of the waters on their common boundary; and in the course of their labors, they sensibly felt the want of more enlarged authority, particularly with reference to the power to provide for a local naval force and a tariff of duties upon imports. Upon receiving their report, the legislature of Virginia passed a resolution for laying the subject of tariffs before the several States; and on the 21st of January, 1786, appointed commissioners to meet such as might be chosen by other States, at such time and place as might be agreed upon, "to take into consideration the trade of the United States; to consider how far an uniform system in their

¹ Various attempts were made by conventions appointed by State authority to overcome the difficulties incident to a depreciated currency, an unstable credit, fluctuating prices and other irregularities, which it was hoped might be adjusted by mutual agreement. The principal of these were as follows:

Convention at Yorktown, Pa., March 26—April 12, 1777.—Attended by commissioners from New York, New Jersey, Pennsylvania, Delaware, Maryland and Virginia. It was designed to regulate prices of labor, manufactures and produce, and of imported goods; but differences of opinion prevented any agreement or united recommendation.

Convention at Springfield, Mass., July 30, 1777.—Attended by commissioners from New Hampshire, Massachusetts, Connecticut, Rhode Island and New York. Its business related to paper currency, the expediency of reducing its amount by taxes or otherwise; public credit, the prevention of monopolies, and other matters of common concern.

Convention at New Haven, Ct., January 15, 1778.—Attended by commissioners from New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, under the advice of Congress, to regulate and ascertain the price of labor, manufactures, produce, and foreign imports, and the charges of inn-holders. A similar convention was recommended for Virginia, Maryland and North Carolina, to be held at *Fredericksburg, Va.*, January 15th, and for South Carolina and Georgia, to be held at *Charleston, S. C.*, February 15th, 1778.

Convention at Boston, Mass., Aug. 3-9, 1780.—Attended by committees from Massachusetts, Connecticut and New Hampshire, and intended to include Rhode Island, by which State an appointment was made. Its object was to promote and forward the most vigorous exertions in the pending campaign, and to cultivate a good understanding and procure a generous treatment of the French allies. Their resolutions advised a prompt filling of quotas—correspondence to secure uniformity in prices—the prevention of frauds—the repeal of State embargo laws—the maintenance of public credit—care for the soldiers taken sick out of their own States—caution in the publication of war news—and the formation of a more solid and permanent union of the States, under one supreme head.

Convention at Hartford, Ct., November 8, 1780.—Called for the purpose of giving vigor to the governing powers equal to the present crisis.

commercial regulations may be necessary to their common interest and permanent harmony; and to report to the several States such an act, relative to this great object, as, when uniformly ratified by them, will enable the United States in Congress assembled, effectually to provide for the same."

The proposed meeting was held at Annapolis, September 11-14, 1786, and commissioners from the States of New York, New Jersey, Pennsylvania, Delaware and Virginia attended. At the conclusion of their session, they recommended that a convention should be held at Philadelphia on the second Monday of May following, "to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary, to render the Constitution of the Federal Government adequate to the exigencies of the union; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterward confirmed by the legislatures of every State, will effectually provide for the same."

This recommendation was approved by Congress, February 21, 1787, and the several States were invited by them to send delegates to the proposed convention. The convention thus appointed to meet at Philadelphia, May 14, 1787, did not form a quorum until the 25th. It sat with closed doors, and an injunction of secrecy was laid upon its proceedings. The journal and papers, at the close of the session, were placed in the hands of General Washington, president of the convention, who, on the 19th of March, 1793, deposited them in the archives of State. The journal was printed by order of Congress in 1818. We are also informed of the proceedings by notes taken by Yates of New York, from May 25th until July 5th, and by Madison of Virginia through the whole time of the session; both of which were printed after their deaths. Disclosures were made by Luther Martin of Maryland to the legislature of that State, and the letters of several members explaining their reasons of dissent were published soon after. The notes by Madison were especially complete and valuable.

The convention adjourned September 17, 1787, and the constitution was reported to Congress, by whom it was transmitted to the several States, in order to be submitted to a convention of delegates chosen in each State, in conformity to a resolution of the convention, by which it had been framed. The States were requested to transmit to Congress the result of their action upon the question of adoption; and by a provision contained in the final article of the constitution, the new government was to go into operation as soon as nine States had signified their acceptance, without waiting for the others. It was, however, to include in its operation only those States which had adopted the constitution. The views which had actuated the convention were expressed in the following letter officially addressed to the President of Congress:

"IN CONVENTION, September 17, 1787.

"SIR: We have now the honor to submit to the consideration of the United States in Congress assembled that Constitution which has appeared to us the most advisable.

"The friends of our country have long seen and desired, that the power of making war, peace and treaties; that of levying money and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the Union; but the impropriety of delegating such extensive trusts to one body of men is evident. Hence results the necessity of a different organization.

"It is obviously impracticable, in the federal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all; individuals entering into society must give up a share

of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the subject to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which must be preserved; and on the present occasion this difficulty is increased by a difference among the several States as to their situation, extent, habits and particular interests.

"In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest to every true American, the consolidation of our nation, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every State is not perhaps to be expected; but each will doubtless consider, that had her interests alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish. With great respect, we have the honor to be, sir, your excellency's most obedient and humble servants,

"GEORGE WASHINGTON, *President.*

"By unanimous order of the Convention.

"His Excellency, the President of Congress."

The Federal Constitution was ratified by the several States as follows:

Delaware,	December 7, 1787,	unanimously.
Pennsylvania,	December 12, 1787,	by a vote of 46 to 23.
New Jersey,	December 18, 1787,	unanimously.
Georgia,	January 2, 1788,	unanimously.
Connecticut,	January 9, 1788,	by a vote of 128 to 40.
Massachusetts,	February 6, 1788,	by a vote of 187 to 168.
Maryland,	April 28, 1788,	by a vote of 63 to 12.
South Carolina,	May 23, 1788,	by a vote of 149 to 73.
New Hampshire,	June 21, 1788,	by a vote of 57 to 47.
Virginia,	June 25, 1788,	by a vote of 89 to 79.
New York,	July 26, 1788,	by a vote of 30 to 25.
North Carolina, ¹	November 21, 1789,	by a vote of 193 to 75.
Rhode Island, ¹	May 29, 1790,	by a majority of 2.
Vermont,	January 10, 1791,	by a vote of 105 to 4.

Kentucky, as a part of Virginia, was represented in the convention of that State by 14 delegates, of whom 11 voted for, and 3 against ratification.

In North Carolina, a convention, which met in July, 1789, rejected the Constitution by a vote of 176 to 76; but in November they again met, and adopted it by the vote above stated.

¹ Congress, at its first session, adopted a measure tending to impress upon the States of North Carolina and Rhode Island, which had not yet ratified the Federal Constitution, a realizing sense of the value of the Union, by subjecting the imports from those States to the same duties as from foreign countries. This act, passed July 31st, was temporarily suspended September 16th of that year, upon representations leading to the hope that the objections hitherto offered by those States to the new Constitution would be overcome at an early day. The desired result was soon after obtained without enforcement of the commercial restrictions proposed.

In Rhode Island, the Constitution was first submitted directly to the people, in March, 1788, and was rejected by a vote of 237 to 2,708. An act for calling a convention was passed September 15, 1789. The convention met at South Kingston on the 1st Monday of March, 1790, and the Constitution was ratified as above stated.

The Constitution was declared ratified by the concurrence of nine States, by a resolution of the old Congress, passed September 13, 1788. The first Wednesday of January, 1789, was appointed for the choice of Presidential Electors in the States that had accepted the Constitution; the first Wednesday of February as the day for the electors to assemble for the choice of President; and the first Wednesday of March, at New York city, as the time and place for commencing proceedings under the new government. The inauguration of the President was delayed from various causes until the 30th of April; and as some members of Congress had not been elected on the 4th of March, doubts might arise as to when their terms should end. It was finally settled that the first Congress should expire on the 3d of March, 1791, and that in future, the terms of the President and of Representatives and Senators should begin upon the 4th of that month. The presidential term in 1821 and 1849 in fact began on the 5th, because the 4th came on a Sunday, and a like incident will occur in 1877, 1917, 1973, etc. It was also decided by the first Congress that legislative business, after an adjournment, was to be taken up where it had been left; but that every bill or other proceeding in Congress should be taken up as new at the beginning of each Congressional term. Bills passed by one house and stopped by the other were to be regarded as lost, and could only be revived by beginning anew. Various other rules and precedents were established by the first Congress, which have since been followed.

The States of Delaware, New Jersey, Georgia, and Connecticut proposed no amendments. The convention of Massachusetts proposed 9, South Carolina 4, New Hampshire 12, Virginia 32, New York 32, and Rhode Island 21. The minority in Pennsylvania proposed 14 amendments, and in Maryland 28. North Carolina in her conditional ratification proposed 26 amendments. Separate Bills of Rights were proposed by Virginia, New York and North Carolina. The actual number of separate amendments offered was much less than the sum of the above, as several States concurred in suggestions identical or nearly similar, and Congress at its first session recommended the adoption of twelve of the more important, ten of which were ratified by the States.

CONSTITUTION OF THE UNITED STATES.

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- II. Executive Department.
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- IV. Rights and Obligations of States.
- V. Mode of amending the Constitution.
- VI. Obligation of Debts and of Treaties — Oaths of Office.
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WE the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defense, promote the general welfare, and secure the Blessings of Liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

§ 2. ⁽¹⁾* The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

⁽²⁾ No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.¹

⁽³⁾ Representatives and direct taxes¹ shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a

*These figures, in brackets, are not in the original, and are added for convenience of reference. We follow in this, the division used in Hickey's edition, which bears a certificate of authentic comparison with the official copy.

¹ Direct taxes have been levied upon four occasions, viz.:

July 14, 1798, of \$2,000,000
August 2, 1813, of 3,000,000
January 9, 1815, of \$6,000,000 annually; repealed

March 5, 1816 for 1816, and afterwards.

August 6, 1861, of \$20,000,000, annually, but collected only one year.

term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.¹ The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

(⁴) When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

(⁵) The House of Representatives shall chuse their speaker and other officers; and shall have the sole power of impeachment.

§ 3. (¹) The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.²

(²) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make

¹ The ratio of representation and number of Representatives has been fixed at each decennial census as follows:

Census.	Date of Apportionment.	No. of Rep.	Ratio 1 to	Date when the Apportionment took effect.
1790.....	April 14, 1792	106	33,000	March 4, 1793
1800.....	January 14, 1802	140	33,000	" " 1803
1810.....	December 21, 1811	181	35,000	" " 1813
1820.....	March 7, 1822	210	40,000	" " 1823
1830.....	May 22, 1832	240	47,000	" " 1833
1840.....	January 25, 1842	223	70,000	" " 1843
1850*.....	August 2, 1852	234	93,420	" " 1853
1860†.....	July 5, 1861	233	126,823	" " 1863
1870.....				

² The times and manners of electing Senators are fixed by an act of Congress of July 25, 1866.

* Apportionment by Secretary of Interior. Ex. Doc. 129, 1st Sess., 32d Cong.

† Apportionment by Secretary of Interior. Ex. Doc. 2, 1st Sess., 37th Cong.

By an act approved March 2, 1862, the number of Representatives was increased to 241, by giving one additional member to each of the States of Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont and Rhode Island.

temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

(²) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

(⁴) The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

(⁶) The Senate shall chuse their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(⁶) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.¹

(⁷) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

§ 4. (¹) The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of chusing Senators.

(²) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.²

§ 5. (¹) Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

(²) Each House may determine the rules of its proceedings, punish

¹ The following named persons have been tried by the Senate of the United States, upon impeachment of the House of Representatives:

1. William Blount, U. S. Senator from Tennessee, Dec. 17, 1798—Jan. 15, 1799.

2. John Pickering, Judge of the New Hampshire District, March 3-12, 1803.

3. Samuel Chase, one of the Associate Justices of the Supreme Court of the U. S., Nov. 30, 1804—March 1, 1805.

4. James H. Peck, Judge of the Missouri District, May 11-25, 1830, and Dec. 13, 1830—January 31, 1831.

5. Andrew Johnson, President of the United States, February 25—May 26, 1868.

² By an act of January 22, 1867, the term of Congress begins at 12 o'clock at noon, on the 4th of March next after election, and a session is held commencing at that time on alternate (odd) years

its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

(³) Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

(⁴) Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 6. (¹) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

(²) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

§ 7. (¹) All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

(²) Every bill which shall have passed the House of Representatives and the Senate, shall before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

(⁸) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

§ 8. The Congress shall have power

(¹) To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

(²) To borrow money on the credit of the United States;

(³) To regulate commerce with foreign nations, and among the several States, and with the Indian Tribes;

(⁴) To establish an uniform rule of naturalization, and uniform laws on the subject of Bankruptcies¹ throughout the United States;

(⁵) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

(⁶) To provide for the punishment of counterfeiting the securities and current coin of the United States;

(⁷) To establish post-offices and post roads;

(⁸) To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

(⁹) To constitute tribunals inferior to the Supreme Court;

(¹⁰) To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

(¹¹) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

(¹²) To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

(¹³) To provide and maintain a navy;

(¹⁴) To make rules for the government and regulation of the land and naval forces;

(¹⁵) To provide for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions;

(¹⁶) To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service

¹ Bankrupt laws have been passed as follows:
April 4, 1800. (Repealed December 10, 1803.)
August 13, 1841. (Repealed March 3, 1843.)
March 2, 1867.

of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

(¹⁷) To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

(¹⁸) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

§ 9. (¹) The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.¹

(²) The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.²

(³) No bill of attainder or ex-post-facto law shall be passed.

(⁴) No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

(⁵) No tax or duty shall be laid on articles exported from any State.

(⁶) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

(⁷) No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account

¹ Acts tending to the termination of the slave trade were passed March 22, 1794; April 7, 1798; May 10, 1800; February 28, 1803; March 25, 1804, and March 2, 1807, the latter being a total prohibition after January 1, 1808.

² Suspension first authorized by act of Congress, March 12, 1863. Proclamation of President under this authority published September 15, 1863, suspending the privilege of the writ of *habeas corpus*, during the existing rebellion throughout the United States, in all cases "when, by the authority of the President of the United States, the military, naval and civil officers of the United States, or any of them, hold persons under their command or in their custody, either as prisoners of war, spies, or aiders or abettors of the enemy, or officers, soldiers, or seamen, enrolled, drafted, or mustered or enlisted in or belonging to the land or naval forces of the United States, or as deserters therefrom, or otherwise amenable to military law, or the rules and articles of war, or the rules or regulations prescribed for the military or naval service by authority of the President of the United States, or for resisting a draft, or for any other offense against the military or naval service."

of the receipts and expenditures of all public money shall be published from time to time.

(⁸) No title of nobility shall be granted by the United States : And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.¹

§ 10. (¹) No State shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make any thing but gold and silver coin a tender in payment of debts ; pass any bill of attainder, ex-post-facto law, or law impairing the obligation of contracts, or grant any title of nobility.

(²) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws : and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States ; and all such laws shall be subject to the revision and control of the Congress.

(³) No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. (¹) The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows :

(²) Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress : but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[² The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Sen-

¹An amendment proposed at the 2d session of the 11th Congress would, if adopted, have extended this prohibition to private citizens. See note under Art. XIII of Amendments.

² This clause within brackets has been superseded and annulled by the 12th Amendment.

ate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed: and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

(³) The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.¹

(⁴) No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

(⁵) In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President,² and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.³

(⁶) The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.⁴

¹ This date has been fixed as follows:

1st Tuesday in December: Act of March 1, 1792.

Tuesday after 1st Monday in November: Act of January 23, 1845.

² Three occasions have happened of this succession, viz.:

WILLIAM H. HARRISON, *President*, died April 4, 1841: JOHN TYLER, *V.-Pres.*, took the oath as President, April 6, 1841.

ZACHARY TAYLOR, *President*, died July 9, 1850: MILLARD FILLMORE, *V.-Pres.*, took the oath as President, July 10, 1850.

ABRAHAM LINCOLN, *President*, was assassinated April 14, 1865: ANDREW JOHNSON, *V.-Pres.*, took the oath as President, April 15, 1865.

³ Congress has provided for this contingency by act of March 1, 1792. The President of the Senate *pro tempore*,—or if there be none, the Speaker of the House of Representatives, in case of vacancy in the offices of both President and Vice-President,—succeeds to the Chief Executive office.

⁴ The President's salary was fixed Feb. 18, 1793, at \$25,000, and has not since been changed.

(7) Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States.”

§ 2. (1) The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur ; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law : but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

§ 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient ; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper ; he shall receive Ambassadors and other public ministers ; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

§ 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

§ 2. (1) The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;— to all cases affecting Ambassadors, other public ministers, and consuls;— to all cases of admiralty and maritime jurisdiction;— to controversies to which the United States shall be a party;— to controversies between two or more States;— between a State and citizen of another State;¹— between citizens of different States,— between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

(2) In all cases affecting Ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

(3) The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

§ 3. (1) Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(2) The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

¹ See Article XI, of Amendments.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

§ 2. ⁽¹⁾ The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

⁽²⁾ A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

⁽³⁾ No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

§ 3. ⁽¹⁾ New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

⁽²⁾ The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or any particular State.

§ 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode

of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

(¹) All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

(²) This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

(³) The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

DONE in convention by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. IN WITNESS whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,

President and Deputy from Virginia.

<i>New Hampshire.</i>	<i>New York.</i>	<i>Pennsylvania.</i>
John Langdon,	Alexander Hamilton.	Benjamin Franklin,
Nicholas Gilman.		Thomas Mifflin,
<i>Massachusetts.</i>	<i>New Jersey.</i>	Robert Morris,
Nathaniel Gorham,	William Livingston,	George Clymer,
Rufus King.	David Brearley,	Thomas Fitzsimmons,
<i>Connecticut.</i>	William Paterson,	Jared Ingersoll,
William Samuel Johnson,	Jonathan Dayton.	James Wilson,
Roger Sherman.		Gouverneur Morris.

Delaware.

George Read,
Gunning Bedford, Jr.,
John Dickinson,
Richard Bassett,
Jacob Broom.

Virginia.

John Blair,
James Madison, Jr.

South Carolina.

John Rutledge,
Charles Cotesworth Pinck-
ney,
Charles Pinckney,
Pierce Butler.

Maryland.

James McHenry,
Dan of St. Thos. Jenifer,
Daniel Carroll.

North Carolina.

William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

Georgia.

William Few,
Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

[Rhode Island was not represented in the Convention. The following named delegates from other States attended but did not sign the Constitution :

Massachusetts.

Elbridge Gerry,
Caleb Strong.

New Jersey.

William C. Houston.

George Wythe,
James McClurg.

Maryland.

John Francis Mercer,
Luther Martin.

North Carolina.

Alexander Martin,
William R. Davie.

Connecticut.

Oliver Ellsworth.

Virginia.

Edmund Randolph,
George Mason,

Georgia.

William Pierce,
William Houston.

New York.

John Lansing, Jr.,
Robert Yates.

Of the 63 delegates originally appointed to this Convention, 10 did not attend, but two of these had their places filled by others. Of those who attended, 39 signed the Constitution and 16 did not. Messrs. Lansing, Yates and L. Martin left the Convention before it adjourned.]

AMENDMENTS TO THE CONSTITUTION

OF THE UNITED STATES OF AMERICA.

Proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.¹

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III.

No soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

¹ Twelve amendments were proposed by the first Congress at its first session. Of these the last ten only were finally adopted. Seven States ratified the whole; three States, all but the first two, one State all but the first, and one State all but the second. Three States did not ratify either. The dates of ratification by the several States were as follows:

New Jersey,.....	November 20, 1789.....	The whole number.
Maryland,.....	December 19, 1789.....	The whole number.
North Carolina,.....	December 22, 1789.....	The whole number.
South Carolina,.....	January 19, 1790.....	The whole number.
New Hampshire,.....	January 25, 1790.....	The last ten only.
Delaware,.....	January 28, 1790.....	The last eleven only.
Pennsylvania,.....	March 10, 1790.....	The last ten only.*
New York,.....	March 27, 1790.....	The last ten only.
Rhode Island,.....	June 15, 1790.....	The last ten only.
Vermont,.....	November 3, 1791.....	The whole number.
Virginia,.....	December 5, 1791.....	The whole number.
Kentucky,.....	June 27, 1792.....	The whole number.

Not ratified by Massachusetts, Connecticut and Georgia.

The failure of the first two articles changed the numbering of those that followed, so that the *third* became the *first*, and so on to the *twelfth*, which became the *tenth*. The rejected articles were as follows:

"1. After the first enumeration required by the First Article of the Constitution, there shall be one Representative for every 30,000, until the number shall amount to one hundred, after which, the proportion shall be so regulated by Congress, that there shall not be less than one hundred Representatives, nor less than one Representative for every 40,000 persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every 50,000 persons.

"2. No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

*The first amendment was subsequently adopted by this State, Sept. 21, 1791.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.¹

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.²

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; the President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in

¹ The Eleventh Article was proposed by Congress, March 12, 1794, in the 1st Session of the third Congress, and was declared in force, January 8, 1798, by a message from the President addressed to Congress. This amendment was caused by the decision in *Chisholm v. Georgia*, in 1793 (2 Dallas, 419, 475), in which it was decided that a State could be sued by a citizen of another State. This decision gave so much dissatisfaction to Georgia, that the legislature carried its opposition to an open defiance of the Judicial authority of the general government.

² The Twelfth Article was recommended for adoption by the Eighth Congress, at its first session, and having received the ratification of three-fourths of the States was declared valid September 25, 1804, by public notice of the Secretary of State.

the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.¹

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly con-

¹ The Thirteenth Article of Amendment was proposed by joint resolution of Congress, approved February 1, 1865, and was declared to be fully ratified, by an official announcement of the Secretary of State, dated December 18, 1865.

In the following table, the dates not inclosed in brackets are from the official publications of laws of the several States, and are, in every instance, the dates of final approval or complete ratification. Those dates which are thus marked, are from newspapers, and other publications not official, and may be found liable to correction in some instances:

Alabama*.....	Ratified...December	2, 1865.	Mississippi.....		
Arkansas.....	" ..April	[5], 1865.	Missouri.....	Ratified...February	10, 1865.
California.....	" ..December	18, 1865.	Nevada.....	" ..February	16, 1865.
Connecticut.....	" ..May	5, 1865.	New Hampshire..	" ..July	1, 1865.
Delaware.....	Rejected...February	8, 1865.	New Jersey.....	" ..January	23, 1865.
Florida.....	Ratified...December	[28], 1865.	New York.....	" ..February	3, 1865.
Georgia.....	" ..December	9, 1865.	North Carolina...	" ..December	4, 1865.
Illinois.....	" ..February	1, 1865.	Ohio.....	" ..February	10, 1865.
Indiana.....	" ..February	16, 1865.	Oregon.....	" ..December	[11], 1865.
Iowa.....	" ..January	24, 1866.	Pennsylvania.....	" ..February	8, 1865.
Kansas.....	" ..February	7, 1865.	Rhode Island.....	" ..February	2, 1865.
Kentucky.....	Rejected...February	24, 1865.	South Carolina...	" ..November	[13], 1865.
Louisiana.....	Ratified...February	17, 1865.	Tennessee.....	" ..April	[5], 1866.
Maine.....	" ..February	7, 1865.	Texas.....	" ..	"
Maryland.....	" ..February	3, 1865.	Vermont.....	" ..March	9, 1865.
Massachusetts.....	" ..February	8, 1865.	Virginia.....	" ..February	[9], 1865.
Michigan.....	" ..February	2, 1865.	West Virginia.....	" ..February	3, 1865.
Minnesota.....	" ..February	11, 1865.	Wisconsin.....	" ..February	1, 1865.

Upon two previous occasions, amendments were proposed, which were to have been designated as "Article XIII," had they been adopted. The first of these, proposed at the 2d Session of the 11th Congress, was published in an edition of the laws, by Boren and Duane, in 1815, under the belief that it had been adopted, although it appeared by a message of the President, dated February 4, 1818, in answer to a resolution of inquiry, that but twelve of the States had adopted it, viz.: Maryland, December 25, 1810; Kentucky, Jan. 31, 1811; Ohio, Jan. 31, 1811; Delaware, Feb. 2, 1811; Pennsylvania, Feb. 6, 1811; New Jersey, Feb. 13, 1811; Vermont, Oct. 24, 1811; Tennessee, Nov. 21, 1811; Georgia, Dec. 13, 1811; North Carolina, Dec. 23, 1811; Massachusetts, Feb. 27, 1812, and New Hampshire, Dec. 10, 1812. It was rejected by New York, March 12, 1812, and by Rhode Island, Sept. 15, 1812. In Connecticut, South Carolina and Virginia it was submitted to the Legislatures, but in neither of these States was it ratified. The amendment proposed was as follows:

"ARTICLE XIII. If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them."

As a measure of conciliation to the States then on the eve of rebellion, Congress by Joint Resolution, approved March 2, 1861, recommended the adoption of the following:

"ARTICLE XIII. No amendment shall be made to the Constitution, which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service, by the laws of said State."

This proposed article was ratified by Maryland, January 10, 1862, and by "Restored Virginia," February 13, 1862. In New Hampshire, Vermont, and some of the other States, it was considered, but without definite action being taken; but by the majority of the States, both North and South, it was altogether disregarded.

* Ratified with the express understanding "that it does not confer upon Congress the power to legislate upon the political status of freedmen" in the State.

† The governor, in returning the resolution, expressed his belief that slavery was ended; but as he did not consider his assent to be necessary, he did not dissent. An unsuccessful attempt was made to rescind the resolution, but by another resolution, passed February 13, 1866, the former action of the legislature was declared final.

‡ The date given is that of concurrent resolution. It was further approved by an act, April 2, 1865.

victed, shall exist within the United States, or any place subject to their jurisdiction.

§ 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.¹

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

§ 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of

¹ The Fourteenth Article of Amendment was proposed by a joint resolution of Congress, passed by the Senate June 8, 1866, by a vote of 33 to 11 (not voting, 5); and by the House, June 13, 1866, by a vote of 138 to 36 (not voting, 10). The amendment was received by the Secretary of State, June 16th, and sent out by him to the several States for their action, under the direction of Congress, without being first submitted to the President. The latter, in a message to Congress, June 22d, expressed doubts as to the validity of this proceeding, and remarked that the action of the Secretary of State should be considered as purely ministerial, and as in no sense whatever committing the Executive to an approval or recommendation of the proposed amendment.

The following table shows the dates of ratification or rejection by the several States. The dates given are those of complete and final action, and are from official records, excepting those in brackets, which, being from unofficial sources, may be liable to correction:

Alabama.....	Ratified...July	[13], 1868.	Missouri.....	Ratified...January	6, 1867.
Arkansas.....	{ Rejected...Decem'r	15-17, 1866.	Nebraska.....	"...June	17, 1867.
	{ Ratified...April	6, 1868.	Nevada.....	"...January	22, 1867.
California.....			New Hampshire..	"...July	7, 1866.
Connecticut.....	Ratified...June	30, 1866.	New Jersey*.....	"...September	11, 1866.
Delaware.....	{ Rejected...February	[7], 1867.	New York.....	"...January	10, 1867.
	{ Rejected...December	6, 1866.	North Carolina..	{ Rejected...December	14, 1866.
Florida.....	{ Ratified...July	31, 1868.		{ Ratified...July	4, 1868.
	{ Rejected...November	[13], 1866.	Ohio... ..	"...January	11, 1867.
Georgia.....	{ Ratified...July	15, 1868.	Oregon.....	"...September	19, 1867.
Illinois.....	"...January	[15], 1867.	Pennsylvania.....	"...February	13, 1866.
Indiana.....	"...January	29, 1867.	Rhode Island.....	"...February	7, 1867.
Iowa.....	"...April	3, 1868.	South Carolina..	{ Rejected...December	[20], 1866.
Kansas.....	"...January	[18], 1867.		{ Ratified...July	15, 1868.
Kentucky.....	{ Rejected...January	[10], 1867.	Tennessee.....	{ Ratified...July	[19], 1866*
	{ Rejected...February	9, 1867.	Texas.....	{ Rejected...November	1, 1866.
Louisiana.....	{ Ratified...July	9, 1868.		{ Ratified... ..	1870.
Maine.....	Ratified...January	19, 1867.	Vermont.....	Ratified...October	30, 1866.
Maryland.....	{ Rejected...March	18, 1867.	Virginia.....	{ Rejected...January	[9], 1867.
Massachusetts.....	Ratified...March	20, 1867.		{ Ratified... ..	1870.
Michigan.....	"...February	15, 1867.	West Virginia... ..	"...January	[16], 1867.
Minnesota.....	"...February	4, 1867.	Wisconsin.....	"...February	[13], 1867.
Mississippi.....	{ Rejected...January	31, 1867.			
	{ Ratified... ..				

This article was officially declared by the Secretary of State, on the 20th of July, 1868, to have been adopted by the requisite number of States, if the resolutions of the legislatures of Ohio and New Jersey, ratifying the amendment, were to be considered as remaining in force notwithstanding the subsequent action of these States, purporting to withdraw their consent to such ratification.

A concurrent resolution was passed in Congress on the 21st of July, reciting that the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the States of the Union, had ratified this amendment, and declaring it to be a part of the Constitution.

The Secretary of State, accordingly, on the 28th July, declared it fully adopted.

* Consent withdrawn March 27, 1868.

† Consent withdrawn January 15, 1868.

persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

§ 3. No person shall be a Senator, or Representative in Congress, or elector of President, Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof: But Congress may by a vote of two-thirds of each House remove such disability.

§ 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.¹

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

¹ The Fifteenth Article of Amendment was proposed by a joint resolution of Congress, finally passed in the House February 25, 1869, by a vote of 144 to 44—(not voting, 35); and in the Senate February 26, by a vote of 39 to 13. It was officially declared, as adopted, by the Secretary of State, and proclaimed by the President, March 30, 1870. The dates of final ratification or rejection by the several States are given in the following table, in which the dates in brackets, being from sources not official, may in some cases require correction:

Alabama	Ratified...	November	16, 1869.	Delaware	Rejected...	March	18, 1869.
Arkansas	"	March	30, 1869.	Florida	Ratified...	June	15, 1869.
California	Rejected...	1869.		Georgia	{ Rejected...	March	[18], 1869.
Connecticut	Ratified...	May	19, 1869.		{ Ratified...	February	[3], 1870.

§ 2. The Congress shall have power to enforce this article by appropriate legislation.

Illinois	Ratified...	March	5, 1869.	New Jersey.....	Rejected..	February	7, 1870.
Indiana*	"	May	[13-14], 1869.	New York §.....	Ratified...	April	14, 1869.
Iowa.....	"	January	26, 1870.	North Carolina ...	"	March	5, 1869.
Kansas†	"	February	27, 1869.	Ohio	{ Rejected..	May	4, 1869.
Kentucky.....	Rejected..	March	[11-12], 1869.		{ Ratified...	January	20, 1870.
Louisiana.....	Ratified...	March	5, 1869.	Oregon			
Maine	"	March	12, 1869.	Pennsylvania	Ratified...	March	26, 1869.
Maryland	Rejected..	February	—, 1870.	Rhode Island ...	"	January	18, 1870.
Massachusetts	Ratified...	March	12, 1869.	South Carolina ...	"	March	16, 1869.
Michigan	"	March	8, 1869.	Tennessee 			
Minnesota	"	January	13, 1870.	Texas.....	"	February	18, 1870.
Mississippi	"	January	17, 1870.	Vermont.....	"	October	20, 1869.
Missouri §	Ratified...	March	1, 1869.	Virginia ..	"	October	8, 1869.
Nebraska	"	February	17, 1870.	West Virginia.....	"	March	3, 1869.
Nevada	"	March	1, 1869.	Wisconsin	"	March	9, 1869.
New Hampshire ..	"	July	7, 1869.				

* On the 4th of March the Democratic members of the legislature resigned, to defeat the adoption of the XVth Article of Amendment. It was adopted by the remaining members.

† The phraseology changed in second section.

‡ Defective: only the first section being acted upon. Again ratified, January [7], 1870.

§ Withdrew consent, January 5, 1870, by a vote of 16 to 13 in Senate, and 69 to 56 in Assembly.

|| Rejected in the House, November 18, 1869, by a vote of 12 to 57. Referred to a committee in the Senate, November 24, 1869, and not reported.



ALABAMA.

That portion of the present State of Alabama north of the line of 31° north latitude, was formerly included within the territorial limits of Georgia and South Carolina, and that south of 31°, originally belonged to the French province of Louisiana, and afterward was included in the British province of West Florida. In 1783, the Floridas were ceded by Great Britain to Spain, and this portion was again placed under the government of Louisiana, then a Spanish province. The first settlement within this State was made by the French upon Dauphine Island, about 1698.

The changes of boundary, jurisdiction and form of government of Alabama, have been as follows:

1787, *March 8*.—South Carolina instructed her delegates in Congress to convey to the United States her territory between the mountains and the Mississippi river, reserving to her grantees such cessions as had been previously made.

1790, *April 7*.—"Mississippi Territory" was formed; bounded east by the Chattahooche, south by the parallel of 31° north latitude, west by the Mississippi river, and north by a line running east from the mouth of the Yazoo river to the Chattahooche. Commissioners were to be appointed to adjust the claims of Georgia west of the Chattahooche, south of the South Carolina cession, and north of 31° north latitude.

1803, *March 27*.—The portion between the State of Tennessee and Mississippi Territory, annexed to the latter.

1812, *May 12*.—That portion of the Louisiana purchase south of 31° north latitude, annexed to Mississippi Territory.

1812, *June 17*.—Congress asked the consent of Georgia for the formation of two States from Mississippi Territory.

1813, *February 12*.—Congress authorized the President to take military possession of that part of West Florida lying west of the Perdido river. This was done under the claim that it had belonged to Louisiana, and therefore that it had been acquired by the purchase of 1803.¹

1817, *March 1*.—The western part of Mississippi Territory allowed to form a State government. The dividing line to be the same as that now between the States of Mississippi and Alabama.

1817, *March 3*.—"Alabama Territory" formed out of the eastern part of Mississippi Territory. The capital was located at St. Stephens, until the Legislature should otherwise direct.

1819, *March 2*.—The inhabitants of Alabama Territory authorized to form a State government. Certain propositions were submitted to the people, which, if accepted, were to be binding upon the United States. They related to section sixteen for schools; salt spring reservations, the construction of roads and canals, and a seminary of learning, for which grants of land were offered. All unappropriated lands were reserved by the United States, and free from taxes five years; the lands of non-residents were not to be taxed higher than those of residents, and 1,620 acres were given for a seat of government.

¹ The question of early title was fully discussed in Congress during the passage of this act and upon previous occasions. The speech of Henry Clay in the Senate, December 25, 1810, has much historical information on the subject.

A Convention thus authorized, met on the 5th of July, and on the 2d of August, 1819, completed the first State Constitution of Alabama, which was ratified by the people, and approved by Congress. The State was admitted into the Union by a joint resolution of Congress, approved December 14, 1819.

The Constitution of 1819 was in many respects similar to that of Mississippi, and was amended by the General Assembly in 1830, 1846 and 1850. Representatives were to be not less than 44 nor more than 60 in number, elected annually, until 1846, when their term was changed to two years, and their sessions made biennial. Senators were to be not less than one-fourth nor more than one-third the number of Representatives, and were elected for three years—one-third annually. In 1846 their term was extended to four years, one-half elected biennially. Representatives were to be equalized by a census of whites, taken in 1820, 1823, 1826, and once in six years after. In 1850, the interval of the census was changed to ten years (1855, &c.), and the numbers of the two Houses were not to exceed 100, and 33 respectively. The tenure of judges was during good behavior until 1830, when their term was fixed at six years.

The first session of the General Assembly was to be held at Huntsville, and after that at Cahawba until 1825, in which interval it was to be permanently located by law. The capital was first established at Tuscaloosa; but in 1846, the restriction of permanence was removed, and the next year it was transferred to Montgomery.

On the 7th of January, 1861, a convention met at Montgomery, and on the 11th it passed an ordinance of Secession, by a vote of 61 to 39. A proposition to submit it to the people was lost by a vote of 47 to 53. Changes were made in the State Constitution to adapt it to the new relation. On the 13th of March, 1861, the convention ratified the "Confederate" Constitution.

Restrictions upon commercial intercourse with Alabama were removed by proclamation of President Johnson, April 29, 1865, and on the 21st of June, he appointed Lewis E. Parsons as Provisional Governor.

On the 20th of July, 1865, Governor Parsons issued a proclamation, fixing August 31 for an election for a Convention, at which election no person could vote, or be a candidate who was not a legal voter on that day; and if excepted from the benefit of amnesty under the President's proclamation of May 29, 1865, he must have obtained a pardon. Persons could vote only in the county of their residence, and not before taking the oath of amnesty prescribed by the President, which was as follows: "I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion, with reference to the emancipation of slaves: so help me God."

A Convention thus elected met September 12, 1865, at Montgomery, and on the 25th, the ordinance of Secession of 1861 was declared null and void. The Convention remained in session until September 30th; made sundry changes in the Constitution, which were not submitted to the people, and passed fifty-two ordinances, most of which related to the current business of their body, on the peculiar circumstances of the State at the time. Slavery was abolished, and the rebel debt repudiated. On the 20th of November the Legislature met, and on the 2d of December Article XIII of Amendments to the Constitution of the United States was ratified, "with the understanding that it does not confer upon Congress the power to legislate upon the political status of freedmen" within the State. The acceptance of this amendment by Alabama completed the requisite

number to give validity to this article as a part of the Constitution of the United States.

Governor Parsons was relieved by an order, dated December 18th, 1865, and directed to transfer the papers and property belonging to the State to Robert M. Patton, the newly elected Governor, whose inauguration had been authorized by President Johnson on the 10th of December, and took place on the 13th of that month. The transfer occurred on the 20th, and was duly announced by the proclamation of the retiring Governor.

These reconstruction measures, as in other States, were not approved by Congress, and under an act passed March 2, 1867, over the President's veto, entitled, "An Act to provide for the more efficient government of the Rebel States," Alabama was included in the Third Military District. By this act, a military government was established in these States, with assurances of protection to all persons in their rights of person and property, and the preservation of the public peace. The people were authorized to form State Constitutions in conformity to the Constitution of the United States, to be framed by Conventions of delegates elected by the male citizens thereof, twenty-one years old and upwards, of whatever race, color, or previous condition, who had resided in the State one year previous to the day of election, excepting such as were disfranchised for participation in the rebellion, or for felony at common law. These Constitutions were to provide that the elective franchise should be enjoyed by all persons authorized to vote for delegates, and when duly approved by the people and by Congress, and when these States should have duly ratified the Fourteenth Amendment to the Constitution of the United States, such States were to be admitted to representation in Congress. No person excluded from holding office under the proposed amendment could be elected to the Convention, or vote for members of such Convention. The civil governments that had been established were declared provisional only, and subject to be abolished, modified, controlled or superseded at any time, by the authority of the United States.

By an act supplementary to the above, passed March 23, 1867, it was provided that before September 1, 1867, the commanding General in each military district should cause a registration of votes to be made, and prescribed a form of oath to be taken by those registered as voters. After the completion of such registration, an election was to be held for delegates to a Convention for the purpose of establishing a Constitution and civil government for such State, loyal to the Union; but electors not desiring a Convention might vote against the measure, and if a majority should thus vote, no Convention was to be held.

The Constitution that might be prepared was to be submitted for approval or rejection by the registered voters (at least one-half of those registered voting thereon), and if thus approved it was to be laid before Congress, and if found to be in conformity with law, it was to be approved by that body, and the State was to be declared entitled to representation.

Under this authority a registration of 166,685 voters was made in 1867.¹ The calling of a Convention was approved by a vote of 90,283 to 5,628. Of those who voted for the Convention, 18,553 were whites, and 71,730 colored.

The Convention assembled at Montgomery, November 5, 1867, and prepared the Constitution given in our text.² Before submitting it to the people, 3,946 names had been added to the registry, making the total number at the time of the election upon the question of adoption, 170,631. This election was held Feb-

¹ According to Gen. Meade's Report, Ex. Doc. 238, 2d Sess., 40th Cong. A table by counties, given in the Tribune Almanac for 1868, p. 63, gives a total of 72,748 white and 88,243 colored voters registered.

² This Convention consisted of 108 members, of whom 16 were colored.

ruary 4, 1868, and in making the returns, two counties (Dale and Henry) failed to report; the boxes in one county (Lowndes) were stolen, and in one (Sumner), the vote was rejected as illegal. Deducting these four counties, the registry amounted to 156,945. The vote cast in the remainder of the State was 70,812 *for* and 1,005 *against*; making a total of 71,817.¹ Of those who voted, 6,702 were whites and 62,194 colored, the remainder not being separately distinguished. Of the whites, 5,802 voted *for*, and 900 *against* the Constitution: and of the colored 62,089 voted *for* and 105 *against* it.² But the law required that one-half of the registered voters must vote at the election, either *for* or *against*, and as one-half of those registered (deducting the four counties) was 78,473, the total vote was found to be 8,114 short of this number, and the election was therefore held by Gen. Meade to have failed on this account. A violent storm on election day was supposed to have kept many persons from voting, while others were deterred by the influences employed to defeat its adoption.

The vote, as subsequently allowed, gave 80,318 *for* to 1,005 *against*.

The Constitution was received in Congress February 24, 1868, and the State, with others, was, by an act passed June 25, 1868, over the President's veto, declared entitled to the admission of its representatives in Congress, whenever the Legislature should have duly ratified the Fourteenth Article of Amendment to the Constitution of the United States, and upon the following fundamental conditions: "That the Constitutions of neither of said States shall ever be so amended or changed as to deprive any citizens or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the Constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State; *Provided*, That any alteration of said Constitution may be made with regard to the time and place of residence of voters."

The act was to take effect upon the ratification of the Fourteenth Article of Amendment, of which official notice was to be given to the President, whose duty it was made, within ten days after, to issue a proclamation announcing the fact. The President accordingly, on the 20th of July, 1868, issued a proclamation certifying that he had been notified by the Governor of Alabama that the amendment had been ratified and approved on the 13th of July of that year.

¹ According to Gen. Meade's Report, Ex. Doc. 238, 2d Sess., 40th Cong. A table by counties, given in the Tribune Almanac for 1868, p. 63, gives a total of 72,748 white and 88,243 colored voters registered.

² The World Almanac for 1870 gives the vote on the Constitution as 68,291 *for* (Rep.), and 856 *against* (Dem.). Of the former, 6,189 were white and 62,152 colored; of the latter 695 were white and 130 colored.

CONSTITUTION OF ALABAMA, 1868.

SUMMARY.

ARTICLES.

- I. Declaration of Rights.
- II. State and County Boundaries.
- III. Distribution of the Powers of Government.
- IV. Legislative Department.
- V. Executive Department.
- VI. Judicial Department.
- VII. Elections.
- VIII. Representation.
- IX. Taxation.
- X. Militia.
- XI. Education.
- XII. Industrial Resources.
- XIII. Corporations.
- XIV. Exempted Property.
- XV. Oath of Office.
- XVI. Amendments to the Constitution.

PREAMBLE.

ARTICLE I.—*Declaration of Rights.*

SECTIONS.

1. Equality of all men — inalienable rights.
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2. Origin of political power — right to change form of government.
4. Right of worship.
5. Religion not to be established by law.
6. Freedom of speech and of the press.
7. Security against unlawful seizures and searches.
8. Rights of persons accused — trial by jury — evidence against one's self — protection of law.
9. Arrests and punishments to be legal.
10. Prosecution by information, with exceptions — cases in which a grand jury may be dispensed with.
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12. Right of prosecution and of defense.
13. Right of trial by jury.
14. Truth may be given in evidence — libels — jury to determine the law and the facts.
15. Courts to be open — right of justice.
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17. Excessive bail — cruel or unusual punishments.
18. Right of bail — excessive bail not to be imposed.
19. Privilege of habeas corpus.
20. Treason defined — how proved.
21. Attainder — corruption of blood — forfeitures.
22. Imprisonment for debt.
23. Suspension of laws.
24. Ex-post-facto laws — obligation of contracts.
25. Private property, when taken for public use — right of way — internal improvements.
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27. Right of assembly — of petition.
28. Right to bear arms in defense of self or State.
29. Exemption from military service.
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32. Titles of nobility — hereditary distinctions — property qualifications — offices limited to good behavior.

SECTIONS.

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10. Journals — publication — yeas and nays — right of protest.
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14. Adjournments.
15. Origin of bills — passage — signature — bills for raising revenue.
16. Approval of Governor — veto power.
17. Governor to sign orders, resolutions and votes of concurrence.
18. Pay of members.
19. Restriction upon holding other offices.
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22. Elections by General Assembly *viva voce*.
23. Impeachment — limit of judgment.
24. Trial of impeachments.
25. Laws for appointment of arbitrators.
26. Penal code.
27. Revision and publication of statutes.
28. Suppression of dueling.
29. Deductions from salaries of public officers.
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10. Salaries of Judges.
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1. All civil officers to take a prescribed oath.

ARTICLE XVI.—*Amendments to the Constitution.*

1. Amendments by General Assembly—popular vote—no Convention without approval of electors.

PREAMBLE.

WE, the people of the State of Alabama, by our representatives in convention assembled, in order to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property, invoking the favor and guidance of Almighty God, do ordain and establish the following Constitution and form of government for the State of Alabama:

ARTICLE I.

DECLARATION OF RIGHTS.

That the great, general and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

§ 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights and public privileges.

§ 3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have, at all times, an inherent right to change their form of government, in such manner as they may deem expedient.

§ 4. That no person shall be deprived of the right to worship God according to the dictates of his own conscience.

§ 5. That no religion shall be established by law.

§ 6. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

§ 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

§ 8. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or

information, a speedy public trial, by an impartial jury of the county or district in which the offense was committed; and that he shall not be compelled to give evidence against himself, or be deprived of his life, liberty or property, but by due process of law.

§ 9. That no person shall be accused or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished but by virtue of a law established and promulgated prior to the offence, and legally applied.

§ 10. That no person shall, for any indictable offense, be proceeded against criminally, by information, except in cases arising in the land and naval service, or in the militia when in actual service, or by leave of the court for oppressions or misdemeanor in office: *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the General Assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace, or such other inferior courts as may be by law established.

§ 11. That no person shall, for the same offense, be twice put in jeopardy of life or limb.

§ 12. That no person shall be debarred from prosecuting or defending, before any tribunal in the State, by himself, or counsel, any civil cause to which he is a party.

§ 13. That the right of trial by jury shall remain inviolate.

§ 14. That in prosecution for the publication of papers investigating the official conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court.

§ 15. That all courts shall be open; that every person, for any injury done him in his lands, goods, person or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

§ 16. That suits may be brought against the State, in such manner and in such courts as may be by law provided.

§ 17. That excessive fines shall not be imposed, or cruel punishment inflicted.

§ 18. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great. Excessive bail shall not, in any case, be required.

§ 19. The privilege of writ of *habeas corpus* shall not be suspended, except when necessary for public safety in times of rebellion or invasion.

§ 20. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 21. That no person shall be attainted of treason by the General Assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

§ 22. That no person shall be imprisoned for debt.

§ 23. That no power of suspending laws shall be exercised, except by the General Assembly or by its authority.

§ 24. That no *ex post facto* law, or any law impairing the obligation of contracts, shall be made.

§ 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner: *Provided, however,* That laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and for works of internal improvement, the right to establish depots, stations, and turnouts, but just compensation shall in all cases be first made to the owner.

§ 26. That all navigable waters shall remain forever public highways, free to the citizens of the State and of the United States, without tax, impost, or toll imposed; and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by the General Assembly.

§ 27. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

§ 28. That every citizen has a right to bear arms in defense of himself and the State.

§ 29. That no person who conscientiously scruples to bear arms shall be compelled to do so, but may pay an equivalent for personal service.

§ 30. That no standing army shall be kept up without the consent of the General Assembly: and, in that case, no appropriation for its

support shall be made for a longer term than one year, and the military shall, in all cases and at all times, be in strict subordination to the civil power.

§ 31. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, or in time of war but in a manner to be prescribed by law.

§ 32. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State: that no property qualification shall be necessary to the election to or holding of any office in this State, and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

§ 33. That emigration from the State shall not be prohibited, and that no citizen shall be exiled.

§ 34. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

§ 35. That no form of slavery shall exist in this State, and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

§ 36. The right of suffrage shall be protected by laws, regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

§ 37. That this State has no right to sever its relations to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of this State to the government of the United States.

§ 38. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II.

STATE AND COUNTY BOUNDARIES.

SECTION 1. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington

county, in this State, as originally formed; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river, and thence up the said river to the beginning.

§ 2. The General Assembly may, by a two-thirds vote of both Houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote. But no new counties shall be hereafter formed of less extent than six hundred square miles; and no existing county shall be reduced to less extent than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, or unless the county or counties from which it is taken shall be left with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another, and those which are judicial to another.

§ 2. No person or collection of persons being of one of those departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed [or?] permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

§ 2. The style of the laws of this State shall be: "Be it enacted by the General Assembly of Alabama." Each law shall contain but one subject, which shall be clearly expressed in its title; and no law shall be revised or amended unless the new act contain the entire act revised, or the section or sections amended; and the section or sections so amended shall be repealed.

§ 3. Senators and Representatives shall be elected by the qualified electors, on the Tuesday after the first Monday in November. The

term of office of the Senators shall be four years, and that of the Representative two years, commencing on the day after the general election.

§ 4. No person shall be a Representative unless he is eligible as an elector to vote for members of the General Assembly.

§ 5. No person shall be a Senator unless he be eligible as an elector to vote for members of the General Assembly, and shall be twenty-seven years of age, and shall have resided for two years within the State, and for the last year thereof within the district for which he shall be chosen.

§ 6. The House of Representatives, when assembled, shall choose a speaker, and its other officers; and the Senate shall choose a President, in the absence of the Lieutenant-Governor, and its other officers. Each House shall judge of the qualifications, elections, and returns of its own members; but a contested election shall be determined in such manner as shall be directed by law. The President of the Senate, and the Speaker of the House of Representatives, shall remain in office until their successors are elected and qualified.

§ 7. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

§ 8. Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

§ 9. Each House, during the session, may punish, by imprisonment, any person not a member, for disrespectful and disorderly behavior in its presence, or obstructing any of its proceedings; *Provided*, That such imprisonment shall not, at any time, exceed forty-eight hours.

§ 10. Each House shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either House shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

§ 11. Members of the General Assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest; and

they shall not be subject to any civil process during the session of the General Assembly, nor for fifteen days next before the commencement and after the termination of each session.

§ 12. When vacancies occur in either House, the Governor, or the person exercising the powers of the Governor, shall issue writs of elections to fill such vacancies.

§ 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

§ 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 15. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of law until, on three several days, it be read in each House, and free discussion be allowed thereon; unless, in case of urgency, four-fifths of the House in which the bill shall be pending may deem it expedient to dispense with this rule. And every bill, having passed both Houses, shall be signed by the speaker and president of their respective Houses: *Provided*, That all bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

§ 16. Every bill or resolution having the force of law, to which the concurrence of both Houses of the General Assembly may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor; and if he approve, he shall sign it; if not, he shall return it, with his objections, to the House in which it shall have originated, who shall enter the objections at large on the journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number of members of that House shall agree to pass it, it shall be sent, together with the objections, to the other House, by which it shall be reconsidered; and if approved by a majority of the whole number of members of that House, it shall have the same effect as if it had been signed by the Governor; but in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of persons voting for and against the bill or resolution shall be entered on the journals of both Houses respectively. If the bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the General Assembly, by its adjournment, prevent its return, in which case it shall not be a law.

§ 17. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary (except on questions of adjournment,

and for bringing on elections by the two Houses), shall be presented to the Governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both Houses, according to the rules and limitations prescribed in the case of bills.

§ 18. Each member of the General Assembly shall receive from the public treasury such compensation for his services as may be prescribed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

§ 19. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

§ 20. No person who holds any lucrative office under the United States, or under this State, or any other State or government (except postmasters, officers in the militia to whose office no annual salary is attached, Justices of the Peace, members of the Court of County Commissioners, Notaries Public, and Commissioners of Deeds); no person who has been convicted of having given or offered any bribe to procure his election to any office; no person who has been convicted of bribery, forgery, perjury, or other high crime or misdemeanor, which may be by law declared to disqualify him; and no person who has been a collector or holder of any public moneys, and has failed to account for and pay over to the treasury all sums for which he may be by law accountable, shall be eligible to the General Assembly.

§ 21. The General Assembly shall meet annually, on such day as may be by law prescribed, and shall not remain in session longer than thirty days, except by a vote of two-thirds of each House.

§ 22. In all elections by the General Assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

§ 23. All State officers may be impeached for any misdemeanor in office, but judgment shall not extend further than the removal from office, and disqualification to hold office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial and judgment, according to law.

§ 24. The House of Representatives shall have the sole power of preferring impeachment. All impeachments shall be tried by the Senate; the Senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment without the concurrence of two-thirds of the Senators present.

§ 25. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitra-

tors, to be appointed by the parties who may choose that mode of adjustment.

§ 26. It shall be the duty of the General Assembly, from time to time, as circumstances may require, to frame and adopt a penal code founded on principles of reformation.

§ 27. It shall be the duty of the General Assembly, within five years after the adoption of this Constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting and promulgation of all the public statutes of this State, both civil and criminal.

§ 28. The General Assembly shall have power to pass such penal laws as they may deem expedient, to suppress the evil practice of dueling.

§ 29. It shall be the duty of the General Assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

§ 30. Divorces from the bonds of matrimony shall not be granted but in cases by law provided for, and by suit in Chancery; but decisions in Chancery for divorce shall be final, unless appealed from in the manner prescribed by law, within three months from the date of the enrollment thereof.

§ 31. No money shall be drawn from the treasury but in pursuance of an appropriation made by law; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

§ 32. The general assembly shall not borrow or raise money on the credit of this State, except for purposes of military defence against actual or threatened invasion, rebellion or insurrection, without the concurrence of two-thirds of the members of each House; nor shall the debts or liabilities of any corporation, person or persons, or other States be guaranteed, nor any money, credit or other thing be loaned or given away, except by a like concurrence of each House; and the votes shall, in each case, be taken by the yeas and nays and be entered on the journals.

§ 33. The State shall not engage in works of internal improvement; but its credit in aid of such may be pledged by the General Assembly on undoubted security, by a vote of two-thirds of each House of the General Assembly.

§ 34. It shall be the duty of the General Assembly to make adequate provisions in each county for the maintenance of the poor of this State.

§ 35. Any citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send, or accept a challenge so to do, or act as a second, or knowingly aid or assist in any manner those thus offending, shall be incapable of holding any office under this State.

§ 36. The General Assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, nor to levy a tax on real and personal property to a greater extent than two per centum of the assessed value of such property.

§ 37. In the event of annexation of any foreign territory to this State, the General Assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this Constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, who shall be chosen by the electors of the State, at the time and places at which they shall vote for Representatives.

§ 2. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, and Attorney-General shall hold their offices for the term of two years, and the Auditor for the term of four years.

§ 3. The returns of every election for the officers named in the preceding section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the presiding officer of the Senate, who, during the first week of the session, shall open and publish the same in the presence of a majority of the members of the General Assembly; the person having the highest number of votes shall be declared duly elected, but if two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for executive officers shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

§ 4. The supreme executive power of this State shall be vested in the Governor.

§ 5. He shall take care that the laws are faithfully executed.

§ 6. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

§ 7. He shall communicate at every session, by message to the General Assembly, the condition of the State, and recommend such measures as he shall deem expedient.

§ 8. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purposes for which they have been convened.

§ 9. In case of disagreement between the two Houses in respect to the time of adjournment, he shall have power to adjourn the General Assembly to such time as he may think proper, but not beyond the regular meetings thereof.

§ 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

§ 11. He shall have power, after conviction, to grant reprieves, commutations and pardons for all offenses (except treason and cases of impeachment) upon such conditions as he may think proper, subject, however, to such regulations as to the manner of applying for pardons as may be prescribed by law; but such pardons shall not relieve from civil or political disability. Upon conviction of treason, he may suspend the execution of the sentence, and report the same to the General Assembly at the next meeting, when the General Assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the General Assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

§ 12. There shall be a Great Seal of the State, which shall be kept and used by the Governor officially, and the seal heretofore in use, shall continue to be the Great Seal of the State until another shall have been adopted by the General Assembly.

§ 13. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal, signed by the Governor and countersigned by the Secretary of State.

§ 14. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of governor, except as herein provided.

§ 15. In case of the death, impeachment, resignation, removal, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the Lieutenant-Governor.

§ 16. The Lieutenant-Governor shall be President of the Senate, but shall vote only when the Senate is equally divided, and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a president *pro tempore*.

§ 17. If the Lieutenant-Governor, while executing the office of Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate for any of the above causes shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

§ 18. Should the office of Secretary of State, Auditor, Treasurer, or Attorney-General become vacant from any of the causes specified in the fifteenth section of this article, the Governor shall fill the vacancy until the disability is removed or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

§ 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period, for which they shall have been elected.

§ 20. The officers of the executive department and of the public institutions of the State shall, at least five days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports with his message to the General Assembly.

§ 21. A Sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve either as principal or deputy for any two successive terms. Vacancies in the office of Sheriff shall be filled by the Governor as in other cases; and the person appointed shall continue in office until the next general election in the county for Sheriff, as by law provided.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, a Supreme Court, Circuit

Courts, Chancery Courts, Courts of Probate, such inferior courts of law and equity, to consist of not more than five members, as the General Assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

§ 2. Except in cases otherwise directed in the Constitution, the Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations not repugnant to this Constitution as may from time to time be prescribed by law: *Provided*, That said court shall have power to issue writs of injunction, *mandamus*, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give a general superintendence and control of inferior jurisdiction.

§ 3. The Supreme Court shall be held at the seat of government, but if that shall have become dangerous from an enemy, or from disease, it may adjourn to a different place.

§ 4. The State shall be divided by the General Assembly into convenient circuits, each of which shall contain not less than three nor more than eight counties; and for each circuit there shall be chosen a judge, who shall, after his election or appointment, reside in the circuit for which he shall have been chosen.

§ 5. The Circuit Court shall have original jurisdiction in all matters, civil and criminal, within the state, not otherwise excepted in the Constitution, but in civil cases only when the matter or sum in controversy exceeds fifty dollars: *Provided, however*, That the Circuit Court shall have equity jurisdiction concurrent with the courts of Chancery in all cases for divorce, and in cases in which the value of the matter in controversy does not exceed the sum of five thousand dollars.

§ 6. A Circuit Court shall be held in each county in the State at least twice in every year, and the judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law: *Provided*, That the judges of the several Circuit Courts shall have power to issue writs of injunction returnable into courts of Chancery.

§ 7. The General Assembly shall have power to establish a court or courts of Chancery with original and appellate jurisdiction. The State shall be divided by the General Assembly into convenient chancery divisions, and the divisions into districts; and for each division there shall be a Chancellor, who shall, after his election or appointment, reside in the division for which he shall have been elected or appointed.

§ 8. A Chancery Court shall be held in each county at a place therein to be fixed by law, and the Chancellors may hold courts for each other, when they deem it expedient.

§ 9. The General Assembly shall have power to establish in each county within the State a Court of Probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphan's business; and the General Assembly may confer on the said courts jurisdiction of contracts for labor, and order frequent sessions for that purpose.

§ 10. The judges of the Supreme Court, Circuit Courts, and Courts of Chancery shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State, or the United States, during the term for which they have been elected, nor under any other power during their continuance in office.

§ 11. Judges of the Supreme Court, and Chancellors, Judges of the Circuit and Probate Courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, towns, or districts for which said courts may be established, on the Tuesday after the first Monday in November of each year, or such other day as may be by law prescribed. Vacancies in the office of the Circuit Judge, Judge of Probate, or judge of any other inferior court established by law, shall be filled by the Governor; and the person appointed by him shall hold office until the next election day appointed by law for election of judge, and until his successor shall have been elected and qualified.

§ 12. The judges of the several courts of this State shall hold their office for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any willful neglect of duty, or any other reasonable cause which shall not be a sufficient ground for impeachment, the Governor shall remove any judge on the address of two-thirds of each House of the General Assembly: *Provided*, That the cause or causes for which said removal may be required shall be stated at length in such address, and entered on the journals of each House: *And provided further*, That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense before any vote for such address; and in all such cases the vote shall be taken by yeas and nays, and be entered on the journal of each House respectively.

§ 13. A competent number of justices and constables shall be elected in and for each county by the qualified electors thereof, who shall hold office during such terms as may be prescribed by law. Said justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars. In all cases tried before such justices the right of appeal shall be secured by law: *Provided*, That Notaries Public, appointed according to law, shall be authorized and required to exercise, throughout their respective counties, all the powers and jurisdiction of Justices of the Peace.

§ 14. The Judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the Circuit Courts within their respective circuits, and the judges of the inferior courts within their respective counties.

§ 15. The Clerk of the Supreme Court shall be appointed by the judges thereof; Registers in Chancery, by the Chancellors of the divisions; and all the clerks and registers so appointed shall be removed by the appointing power for cause to be placed on the records of the court.

§ 16. The Attorney-General shall reside at the seat of government, and shall be the law officer of the State. During the session of the General Assembly he shall furnish to the committees of either House, when required, draughts of bills, and written opinions upon any matter under consideration of the committees, and shall perform such other duties as may be required of him by law.

§ 17. A Solicitor shall be elected in each county in this State by the qualified electors of such county, who shall reside in the county for which he is elected, and perform such duties as may be required of him by law. He shall hold office for a term of four years, and in case of vacancy, such vacancy shall be filled by the judge of the circuit until his successor is elected and qualified.

§ 18. Clerks of the Circuit Court, and such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of six years, and may be removed from office for cause, and in such manner as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, until the next general election, and until a successor shall be elected and qualified: *Provided*, That the General Assembly shall have power to annex the duties of clerk to the office of judge of any of the inferior courts by law established.

§ 19. The style of all processes shall be "*The State of Alabama*," and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

ARTICLE VII.

ELECTIONS.

SECTION 1. In all elections by the people, the electors shall vote by ballot.

§ 2. Every male person, born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and three months in the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, That no soldier or sailor, or marine in the military or naval service of the United States, shall hereafter acquire a residence by reason of being stationed on duty in this State.

§ 3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; but the following class of persons shall not be permitted to register, vote or hold office: 1st. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employee or citizen of the United States, or who in any other way violated the rules of civilized warfare. 2d. Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States, known as "Article XIV," and those who have been disqualified from registering to vote for delegates to the convention to frame a Constitution for the State of Alabama, under the act of Congress "to provide for the more efficient government of the rebel States," passed by Congress March 2, 1867, and the act supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: *Provided*, That the General Assembly shall have power to remove the disabilities incurred under this clause. 3d. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4th. Those who are idiots or insane.

§ 4. All persons before registering must take and subscribe the following oath: I, ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section 3, article 7, of the Constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not

to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege or immunity enjoyed by any other class of men; and furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party.

§ 5. Electors shall in all cases except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

§ 6. It shall be the duty of the General Assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

§ 7. Returns of elections for all civil officers elected by the people, who are to be commissioned by the Governor, and also for the members of the General Assembly, shall be made to the Secretary of State.

ARTICLE VIII.

REPRESENTATION.

SECTION 1. The House of Representatives shall consist of not more than one hundred members, who shall be apportioned by the General Assembly among the several counties of the State, according to the number of inhabitants in them respectively; and to this end the General Assembly shall cause an enumeration of all the inhabitants of the State to be made in the year 1875, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration until after the next census shall have been taken: *Provided*, That each county shall be entitled to at least one Representative: *And provided further*, That when two or more adjoining counties shall each have a residuum or fraction over and above the ratio then fixed by law, which fractions, when added together, equal or exceed that ratio, in that case the county having the largest fraction shall be entitled to one additional Representative.

§ 2. Until the General Assembly shall make an apportionment of the Representatives among the several counties after the first enumeration made as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Butler, Calhoun, Clay, Clarke, Cherokee, Cleburne, Crenshaw, Choctaw, Coffee, Conecuh, Coosa, Covington, Dale, DeKalb, Elmore, Fayette, Henry, Jefferson, Lauderdale, Limestone, Marshall,

Marion, Monroe, Morgan, Pike, Randolph, St. Clair, Shelby, Walker, Washington and Winston, shall have one Representative each; the counties of Chambers, Franklin, Greene, Hale, Jackson, Lee, Lawrence, Macon, Pickens, Russell, Talledega, Tallapoosa and Tuscaloosa, shall be entitled to two representatives each; the counties of Barbour, Bullock, Lowndes, Madison, Marengo, Perry, Sumter and Wilcox, shall be entitled to three representatives each; the counties of Dallas, Mobile and Montgomery shall be entitled to five representatives each: *Provided*, That in the formation of new counties the General Assembly may apportion to each its proper representation.

§ 3. The whole number of Senators shall be not less than *one-fourth* or more than *one-third* of the whole number of Representatives; and it shall be the duty of the General Assembly at its first session after the making of each enumeration, as provided by section first of this article, to fix by law the number of Senators, and to divide the State into as many senatorial districts as there are Senators; which districts shall be as nearly equal to each other as may be in the number of inhabitants, and each shall be entitled to *one* Senator and no more: *Provided*, That no county shall be divided, and no two or more counties which are separated entirely by a county belonging to another district shall be joined in one district: *And provided further*, That the senatorial districts, when formed, shall not be changed until after the next enumeration shall have been taken.

§ 4. At the first general election after each new apportionment, elections shall be held anew in all the senatorial districts. The Senators elected, when convened at the next ensuing session of the General Assembly, shall be divided by lot into two classes, as nearly equal as may be; the seats of the Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years from the day of election, so that (except as above provided), one-half of the Senators may be chosen biennially.

§ 5. Until the General Assembly shall divide the State into senatorial districts as herein provided, the senatorial districts shall remain as follows: 1st district, Limestone and Lauderdale; 2d, Franklin and Lawrence; 3d, Morgan, Blount, Winston, and Marion; 4th, Madison; 5th, Jackson, Marshall, and DeKalb; 6th, Cherokee and Calhoun; 7th, Walker, Jefferson, and St. Clair; 8th, Shelby and Bibb; 9th, Tuscaloosa and Fayette; 10th, Talledega and Clay; 11th, Chambers, Randolph, and Cleburne; 12th, Coosa and Tallapoosa; 13th, Lee; 14th, Macon; 15th, Russell; 16th, Bullock; 17th, Barbour; 18th, Autauga and Elmore; 19th, Montgomery; 20th, Lowndes; 21st, Dallas; 22d, Perry; 23d, Hale; 24th, Greene and Pickens; 25th, Sumter;

26th, Marengo; 27th, Choctaw, Clark, and Washington; 28th, Mobile; 29th, Monroe and Baldwin; 30th, Wilcox; 31st, Butler and Conecuh; 32d, Covington, Crenshaw, and Pike; 33d, Coffee, Dale, and Henry.

§ 6. Until a new apportionment of Representatives to the Congress of the United States shall have been made, the congressional districts shall remain as stated in the revised code of Alabama, and after each new apportionment the General Assembly shall divide the State into as many districts as it is allowed Representatives in Congress, making such congressional districts as nearly equal in the number of inhabitants as may be.

ARTICLE IX.

TAXATION.

SECTION 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property; *Provided, however,* That the general assembly may levy a poll-tax not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public school fund.

§ 2. No power to levy taxes shall be delegated to individuals or private corporations.

ARTICLE X.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen years and forty-five years, who are citizens of the United States, or who have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; but all citizens of any denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempt therefrom upon such condition as may be prescribed by law.

§ 2. The General Assembly shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same, when called into active service, in such manner as it shall deem expedient, not incompatible with the laws of the United States.

§ 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by the General Assembly.

§ 4. The Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when called into the service of the United States, and shall have power to call forth the

militia to execute the laws to suppress riots, or insurrections, and to repel invasion.

§ 5. The Governor shall nominate, and by and with the consent of the Senate appoint, one Major-General and three Brigadier-Generals. The Adjutant-General, and other staff officers to the commander-in-chief, shall be appointed by the Governor, and their commissions shall expire with the Governor's term of service. No commissioned officer shall be removed from office except by the Senate, on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial pursuant to law.

§ 6. The militia may be divided into two classes, to be designated as "volunteer militia" and "reserve militia," in such manner as shall be provided by law.

§ 7. The militia shall, in all cases except felony, treason, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

§ 8. The officers and men commissioned and organized shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

ARTICLE XI.

EDUCATION.

SECTION 1. The common schools, and other educational institutions of the State, shall be under the management of a Board of Education, consisting of a Superintendent of Public Instruction and two members from each congressional district.

The Governor of the State shall be *ex officio* a member of the Board, but shall have no vote in its proceedings.

§ 2. The Superintendent of Public Instruction shall be president of the Board of Education, and have the casting vote in case of a tie; he shall have the supervision of the public schools of the State, and perform such other duties as may be imposed upon him by the Board and the laws of the State. He shall be elected in the same manner and for the same term as the Governor of the State, and receive such salary as may be fixed by law. An office shall be assigned him in the capitol of the State.

§ 3. The members of the Board shall hold office for a term of four years, and until their successors shall be elected and qualified. After the first election under the Constitution the Board shall be divided into two equal classes, so that each class shall consist of one member

from each district. The seats of the first class shall be vacated at the expiration of two years from the day of election, so that one-half may be chosen biennially.

§ 4. The members of the Board of Education, except the Superintendent, shall be elected by the qualified electors of the congressional districts in which they are chosen, at the same time and in the same manner as the members of Congress.

§ 5. The Board of Education shall exercise full legislative powers in reference to the public educational institutions of the State, and its acts, when approved by the Governor, or when re-enacted by two-thirds of the Board, in case of his disapproval, shall have the force and effect of law, unless repealed by the General Assembly.

§ 6. It shall be the duty of the Board to establish, throughout the State, in each township, or other school district which it may have created, one or more schools, at which all the children of the State, between the ages of five and twenty-one years, may attend free of charge.

§ 7. No rule or law affecting the general interest of education shall be made by the Board without a concurrence of a majority of its members. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Alabama."

§ 8. The Board of Education shall be a body politic and corporate, by the name and style of the Board of Education of the State of Alabama. Said Board shall also be a Board of Regents of the State University, and, when sitting as a Board of Regents of the University, shall have power to appoint the President and the faculties thereof.

The President of the University shall be, *ex officio*, a member of the Board of Regents, but shall have no vote in its proceedings.

§ 9. The Board of Education shall meet annually at the seat of government at the same time as the General Assembly, but no session shall continue longer than twenty days, nor shall more than one session be held in the same year, unless authorized by the Governor. The members shall receive the same mileage and daily pay as the members of the General Assembly.

§ 10. The proceeds of all lands that have been or may be granted by the United States to the State for educational purposes; of the swamp lands, and of all lands or other property given by individuals or appropriated by the State for like purposes; and of all estates of deceased persons who have died without leaving a will or heir; and all moneys which may be paid as an equivalent for exemption from military duty, shall be and remain a perpetual fund, which may be increased but not diminished, and the interest and income of which, together with the rents of all such lands as may remain unsold, and such other

means as the General Assembly may provide, shall be inviolably appropriated to educational purposes, and to no other purpose whatever.

§ 11. In addition to the amount accruing from the above sources, one-fifth of the aggregate annual revenue of the State shall be devoted exclusively to the maintenance of public schools.

§ 12. The General Assembly may give power to the authorities of the school districts to levy a poll tax on the inhabitants of the district in aid of the general school fund, and for no other purpose.

§ 13. The General Assembly shall levy a specific annual tax upon all railroad, navigation, banking and insurance corporations, and upon all insurance and foreign bank and exchange agencies, and upon the profits of foreign bank bills issued in this State by any corporation, partnership, or persons, which shall be exclusively devoted to the maintenance of public schools.

§ 14. The General Assembly shall, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the two hundred and forty thousand acres of land donated to this State, for the support of such a college, by the act of Congress passed July 2, 1862, or the money or scrip, as the case may be, arising from the sale of said land, or any lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such college or schools, and may make the same a branch of the University of Alabama for instruction in agriculture, in the mechanic arts, and the natural sciences connected therewith, and place the same under the supervision of the Regents of the University.

ARTICLE XII.

INDUSTRIAL RESOURCES.

SECTION 1. A Bureau of Industrial Resources shall be established, to be under the management of a Commissioner, who shall be elected at the first general election, and shall hold his office for the term of four years.

§ 2. The Commissioner of Industrial Resources shall collect and condense statistical information concerning the productive industries of the State, and shall make or cause to be made, a careful, accurate and thorough report upon the agriculture and geology of the State, and annually report such additions as the progress of scientific development and extended explorations may require. He shall, from time to time, disseminate among the people of the State such knowledge as he may deem important concerning improved machinery and production, and for the promotion of their agricultural, manufacturing,

and mining interests; and shall send out to the people of the United States and foreign countries such reports concerning the industrial resources of Alabama as may best make known the advantages offered by the State to emigrants, and shall perform such other duties as the General Assembly may require.

§ 3. It shall be the duty of the General Assembly, at the first session after the adoption of this Constitution, to pass such laws and regulations as may be necessary for the government and protection of this Bureau, and also to fix and provide for the compensation of the Commissioner.

§ 4. This Bureau shall be located and the Commissioner shall reside at the capital of the State, and he shall annually make a written or printed report to the Governor of the State, to be laid before the General Assembly at each session.

§ 5. In case of the death, removal or resignation of the Commissioner, the Governor, with the approval of the Senate, shall have power to appoint a Commissioner for the unexpired term.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

§ 2. Dues from corporations shall be secured by such individual liabilities of the corporators or other means as may be prescribed by law.

§ 3. Each stockholder in any corporation shall be liable to the amount of stock held or owned by him.

§ 4. The property of corporations now existing, or hereafter created, shall forever be subject to taxation the same as property of individuals, except corporations for educational and charitable purposes.

§ 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money or secured by a deposit of money to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

§ 6. The General Assembly shall not have power to establish or incorporate any bank or banking company or moneyed institution for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

§ 7. No bank shall be established otherwise than under a general banking law, as provided in the first section of this article.

§ 8. The General Assembly may enact a general banking law, which law shall provide for the registry and countersigning by the Governor of the State of all paper credit designed to be created as money; and ample collateral security, convertible into specie, or the redemption of the same in gold or silver, shall be required, and such collateral security shall be under the control of such officer or officers as may be prescribed by law.

§ 9. All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payment.

§ 10. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

§ 11. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business.

§ 12. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

§ 13. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or lent to any banking company, association or corporation, except for the purpose of expediting the construction of railroads or works of internal improvement within this State, and the credit of the State shall in no case be given or lent without the approval of two-thirds of both Houses of the General Assembly.

§ 15.¹ All corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

§ 16. It shall be the duty of the General Assembly to provide for the organization of cities and incorporated towns, and to restrict their power of taxation, assessment, and contracting of debt.

¹ Sec. 14 is omitted, or an error is made in numbering. We follow the official copy.

ARTICLE XIV.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this state to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this Constitution.

§ 2. Every homestead not exceeding eighty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or, in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale on execution, or any other final process from a court, from any debt contracted after the adoption of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienage of such homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

§ 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this Constitution, in all cases, during the minority of the children.

§ 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

§ 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall inure to her benefit.

§ 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterward be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her the same as if she were a *feme sole*.

ARTICLE XV.

OATH OF OFFICE.

SECTION 1. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath :

I, ———, do solemnly swear (or affirm) that I am not disfranchised by the Constitution of Alabama, or by the Constitution or laws of the United States; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the union of the states, and the Constitution and laws of the State of Alabama, so long as I remain a citizen thereof; and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter, to the best of my ability: so help me God.

ARTICLE XVI.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. The General Assembly, whenever two-thirds of each House shall deem it necessary, may propose amendments to this Constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of Representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be held for Representatives, to open a poll for, and make a return to the Secretary of State for the time being of, the names of all those voting for Representatives who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of the State voting for Representatives have voted in favor of such proposed amendments, and two-thirds of each House of the next General Assembly shall, after such an election, and before another, ratify the same amendments, by yeas and nays, they shall be valid to all intents and purposes as a part of this Constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read three times on three several days in each House.

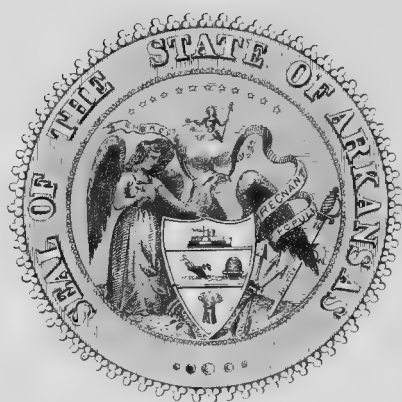
After the expiration of twelve months from the adoption of this Constitution, no convention shall be held for the purpose of altering or amending the Constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of all the

electors, twenty-one years of age and upward, and approved by a majority of the electors voting at said election.

E. W. PECK, *President*.

ROBERT BARBER, *Secretary*.

A. J. Applegate,	J. F. Morton,	S. S. Gardner,
W. A. Austin,	T. M. Peters,	O. Gregory,
J. H. Autrey,	H. C. Russell,	A. Griffin,
W. T. Blackford,	J. Silsby,	T. Haughey,
M. D. Brainard,	L. R. Smith,	B. Inge,
W. M. Buckley,	H. J. Springfield,	A. W. Jones,
V. H. Burdick,	J. P. Stow,	J. C. Keffer,
J. Carraway,	W. A. Walker,	Tom Lee,
J. Collins,	J. R. Walker,	H. McGown,
J. H. Davis,	J. A. Yordy,	J. W. McLeod,
G. J. Dykes,	N. D. Stanwood,	J. J. Martin,
P. Finley,	Thomas Adams,	C. A. Miller,
W. C. Garrison,	B. Alexander,	A. L. Morgan,
J. K. Greene,	D. H. Bingham,	B. W. Norris,
J. M. Hatcher,	A. Bingham,	J. T. Rapier,
C. Hayes,	Sam. Blandon,	B. F. Saffold,
W. Johnson,	A. E. Buck,	Wm. Skinner,
C. Jones,	C. W. Buckley,	C. L. Steed,
S. F. Kennamer,	P. Burton,	L. B. Strange,
D. Lore,	D. E. Coon,	C. O. Whitney,
J. Mahan,	Thomas Diggs,	J. W. Wilhite,
B. O. Masterson,	George Ely,	R. M. Reynolds,
S. Moore,		



ARKANSAS.

This State was included in the province of Louisiana under the French and Spaniards, and was acquired by purchase from France, April 30, 1803, the principal settlement being at that time at Arkansas Post, at the mouth of the Arkansas river. On the 26th of March, 1804, it was included in the "District of Louisiana," and attached temporarily to Indiana territory; but, on the 3d of March, 1805, the "Territory of Louisiana" was separately formed, including all of the Louisiana purchase west of the Mississippi and north of the present State of Louisiana. It remained under this name until the formation of the State of Louisiana, June 4, 1812, when the name of the territory was changed to that of the "Territory of Missouri." The government, which had previously been vested in a Governor, Secretary, and three Judges, was now changed by the establishment of a General Assembly, consisting of the Governor, a Legislative Council of nine members, and a House of Representatives, the latter elected by the people.

The "Territory of Arkansas" was formed March 2, 1819, including all that part of the Territory of Missouri south of a line beginning on the Mississippi river at 36° north latitude; running thence west to St. François river; thence up the same to 36° 30', and thence west to the western bounds of the territory. This act took effect on the 4th day of July following, and the legislative power was for the present left in the hands of the Governor and Judges, leaving the organization of a General Assembly to be arranged in the same manner as in Missouri territory, whenever the Governor should be satisfied that such was the desire of a majority of the freeholders, and not till then. The proceedings undertaken for the organization of a territory of the second grade were confirmed by an act of Congress, approved April 21, 1820, so far as consistent with certain acts therein mentioned.

On the 26th of May, 1824, the western boundary of the territory of Arkansas was fixed on a meridian forty miles west of the south-western corner of the state of Missouri; but under the terms of a treaty held with the Cherokee nation of Indians, May 26, 1828, the western limit of the territory was fixed as beginning on the Red river, at the point where the eastern Choctaw line strikes said river, and running thence due north with said line to the Arkansas river, and thence in a direct line to the southwest corner of Missouri. This line has not since been changed. The boundary line between Louisiana and Arkansas was ordered to be surveyed and marked by an act of Congress, approved May 19, 1828.

On the 4th of January, 1836, a Convention assembled at Little Rock, to prepare a State Constitution, by virtue of an act of the territorial legislature, but without an enabling act of Congress. The right to organize a State government was claimed, in the preamble to the Constitution then formed, to be given under the treaty of April 30, 1803, with France, for the purchase of Louisiana. The third article of this treaty provided that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." The Constitution was agreed upon January 30, 1836. A memorial accompanying the Constitution, and praying for admission into the Union, was presented in the

House of Representatives, March 1, 1836, and the proceedings of the Convention were also communicated to Congress through the President, March 10, 1836. The State was admitted into the Union by an act of Congress, June 15, 1836, and a supplementary act further defining her rights was passed June 23, 1836.

Under this Constitution the General Assembly held biennial sessions. The Senate consisted at first of seventeen members, and might be increased to thirty-three; elected for terms of four years, one-half annually, and by single districts. The House of Representatives consisted at first of fifty-four members, and might be increased to one hundred. Representation in each House was to be equalized by a census taken in 1838, and once in four years afterward. The Governor was elected for four years, and, in case of vacancy, the President of the Senate or Speaker of the House succeeded to the office, there being no Lieutenant-Governor elected. The judicial power was vested in a Supreme Court, Circuit Courts, County Courts and justices' courts. Judges of the Supreme and Circuit Courts were elected by the joint vote of the two Houses for a term of eight years, and were so classed that one-third were elected every four, six and eight years. The County Courts were held by justices of the peace, who in this capacity had jurisdiction in all matters relating to county taxes, disbursements of money for county purposes, and in every other case that might be necessary to the internal improvements and local concerns of the respective counties. The presiding judge of the County Court was elected by the justices of the peace, and commissioned by the Governor for a term of two years, and until his successor was elected and qualified. In addition to his duties as presiding judge of the County Court, he was a Judge of Probate, and had such jurisdiction in matters relating to the estates of deceased persons, executors, administrators and guardians, as the law might prescribe.

The General Assembly, by joint vote, elected an Auditor, and Treasurer, a Secretary of State, an Attorney General, and an Attorney for each circuit, which circuits were to consist of not less than five nor more than seven counties. Until the General Assembly should deem it expedient to establish a Court of Chancery, the Circuit Courts were to have jurisdiction in matters of equity, subject to appeal to the Supreme Court, in such manner as the law might prescribe. The Supreme Court had appellate jurisdiction only.

The amendments of 1846 forbade the incorporation of banks, gave the General Assembly power to compel the circuit judges to exchange circuits, allowed certain additional powers to be given to justices of the peace, and defined the official term of certain judicial officers as extending to the period for which they were chosen, and until their successors were elected and qualified.

With the exception of four articles of amendment proposed by the General Assembly in 1844, and ratified by the people November 17, 1846, the Constitution of 1836 remained unchanged until the period of the great rebellion.

The Legislature of Arkansas, by an act passed January 16, 1861, directed that an election for a State convention should be held February 18th, and that the convention should meet March 4, 1861. This measure was managed in the interests of Secession, and the result of the election, as proclaimed by Governor Rector, March 2, 1861, gave a majority of 11,586 for the convention, the vote being 27,412 to 15,826.

The convention met at Little Rock, March 4, 1861, and on the 18th an ordinance of Secession was defeated by a vote of 35 to 39; but a compromise was effected, and the question was referred to the people for their decision at an election to be held on the first Monday of August. Five delegates were appointed to a convention of the Border States, to be held at Frankfort, Ky., and the convention adjourned March 21st to August 19th, but might be called earlier should the

president of the convention deem it necessary. It was called by proclamation April 20th, to meet May 6, 1861, and an ordinance of Secession was passed on that day by a vote of 69 to 1. The ordinance was officially signed the next day, and the order of submission to the vote of the people was repealed.

The convention made some changes in the State Constitution on the 22d of May, by inserting the words "Confederate States" in place of the "United States," with sundry other amendments, and adjourned June 3, 1861.

On the 16th of August, 1861, the President of the United States issued a proclamation declaring the State of Arkansas (excepting such parts as might maintain adhesion to the Union, or might be under the control of the Union forces), in a state of insurrection against the United States, and forbidding all commercial intercourse between them and the citizens of the other States, except when carried on under special license. At this time no part of the State was openly supporting the authority of the United States, nor was any portion under the protection of the Union arms.

Upon the arrival of the Union armies in 1863, those who remained loyal to the government of the United States began to take measures for the restoration of a State government,—at first by local conventions and primary meetings, which resulted in a call for a Convention to be held at Little Rock, January 8, 1864, for the purpose of so amending the Constitution as to abolish slavery. This convention was held, and forty-five delegates, representing about half of the State, attended. They proceeded to re-organize the Constitution, and passed ordinances rescinding the ordinance of Secession, abolishing slavery, repudiating the rebel debt, and nullifying the acts of the Confederate authorities, with the exception of laws relating to the marriage contract, the acknowledgment of deeds, and a few others of similar character. It also organized a Provincial government, with a Provisional governor, and empowered him to order an election of a permanent Governor, and to submit the Constitution to the people for their acceptance or rejection.

This election was held March 14, 1864, at which 12,177 votes were cast for, and 226 against, the Constitution. The number who had voted in 1860 was 54,053, from which it appears that less than a quarter of the number then voting took part in the reconstruction measures of the convention. A State government was put in operation, and a General Assembly, elected under this authority, met on the 11th of April, 1864, although a nominal government, under Confederate authority, existed until the final collapse of the rebellion. The free State government was recognized by President Lincoln, and on the 30th of October, 1865, was recognized by President Johnson as of proper authority, in a telegram to Governor Isaac Murphy, in which he was assured that there would be no interference with the existing State organization, and was requested to proceed and resume the former relations with the Federal Government, under assurances that all the aid in the power of Government would be given in the restoration.

Under the reconstruction acts of Congress (already mentioned in our historical notice of Alabama), a registration of voters was had, giving a total of 33,047 whites, 21,969 colored, and 10,743 class not specified. General total, 65,759, as published in the Appendix to the Debates of the Convention. The number given in General Orders No. 43, 4th Military District, is 66,805. On the vote for or against a convention, the vote is stated unofficially in the Debates and Proceedings as 27,188 *for*, and 11,942 *against*. The official returns (G. O. 43, H. Q. 4th Mil. Dist.) was 27,576 *for*, and 13,551 *against*.

The convention being thus approved, met at Little Rock, January 7, 1868, and adjourned on the 14th of February, having on the 11th of February agreed upon

the Constitution given in our text. It was submitted to the people for their approval or rejection at an election begun March 13, 1868, and was adopted by a vote of 27,913 *for* to 26,597 *against*. The number of registered voters, as unofficially certified, April 23, 1868, was 73,784, of whom 19,276 did not participate in the election. The vote appended to the edition of the Constitution printed as Ex. Doc. 274, 2d Sess., 40th Cong., gives a total of 30,380 *for* and 41 *against* the Constitution.

An act to admit the State of Arkansas to representation in Congress was passed June 8, received by the President June 9, returned with his objections June 20, and passed by both houses of Congress, notwithstanding these objections, June 22, 1868. The State was re-admitted to representation in Congress, upon the fundamental condition that its Constitution should never be amended or changed so as to deprive any citizen or class of citizens of the United States of the right to vote, who were entitled to vote by the Constitution then recognized, "except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of the State," excepting that alterations might be made in regard to the time and place of residence of voters. Military authority was withdrawn July 13, 1867, and on the 4th of August the State was detached from the 5th military district.

CONSTITUTION OF ARKANSAS, 1868.

SUMMARY.

ARTICLES.

- I. Bill of rights.
- II. Boundaries.
- III. Seat of government.
- IV. Distribution of the powers of government.
- V. Legislative department.
- VI. Executive department.
- VII. Judiciary.
- VIII. Franchise.
- IX. Education.
- X. Finances—taxation—public debt and expenditures.
- XI. Militia.
- XII. Exempted property.
- XIII. Amendments to the Constitution.
- XIV. Apportionment.
- XV. Miscellaneous provisions—schedule.

PREAMBLE.

ARTICLE I. — *Bill of Rights.*

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1. Origin of political power—objects of government—paramount allegiance to United States—union indissoluble—right of federal government to maintain itself.
2. Freedom of the press and of speech—libels.
3. Equality of all persons before the law.
4. Right of assembly—of petition.
5. Right to bear arms.
6. Trial by jury.
7. Excessive bail—cruel or unusual punishments.
8. Rights of persons accused.
9. Indictment by grand juries—minor offenses—second trials forbidden—witness against one's self—right of bail—habeas corpus.
10. Right of justice.
11. Treason defined—how proved.
12. Security against unlawful seizures and searches.
13. Attainder—ex post facto laws—obligation of contracts—forfeitures.
14. No imprisonment for debt—exemptions of property.
15. Private property, when taken for public use.
16. Subordination of military to civil power—standing armies—quartering of soldiers.
17. Suits against the state.
18. Exclusive privileges forbidden.
19. Protection of right of suffrage.
20. Rights of foreigners.
21. Religious or property qualifications—freedom of religious opinions—mode of administering oaths.
22. Dueling—disqualifications on account of.
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25. Secession ordinances and proceedings annulled—exception in certain cases.

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1. Description of boundaries.

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1. Located at Little Rock.

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2. Time and place of meeting.
3. House of Representatives, how composed.
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5. Senate, how composed.
6. Qualification of Senators.
7. Number of Senators and Representatives.
8. Census—apportionment.
9. Senatorial districts and term.
10. Vacancies from removal out of district.
11. Senators and members may not hold other offices.
12. Privilege from arrest on civil process—freedom of debate.
13. Quorum—absent members.
14. Powers of each house—expulsion of members.
15. State printing.
16. Journals—publication—yeas and nays—right of protest.
17. Elections in either house to be viva voce—record of votes.
18. Sessions to be with open doors—adjournments.
19. Origin of bills—bills for raising revenue.
20. No appropriations by resolution—only by bills.
21. Passage of bills—votes to be taken and entered.
22. Acts to embrace but one subject—when to take effect.
23. Revision or amendment of laws.
24. Restriction upon new bills near close of session.
25. Registration of electors—prevention of frauds in elections.
26. Publication of laws—of judicial decisions—free to all for publication.
27. Style of laws.
28. Laws for county, township, or precinct governments.
29. Penal code.
30. Change of venue—only by general laws.
31. Appeals in criminal or penal cases—right of challenge of jurors.
32. Selection of juries.
33. Vacancies in either house of General Assembly.
34. Vacancies in office.
35. Approval of Governor—veto power.
36. Power over persons not members.
37. Disfranchisement—prohibition of slavery.
38. Compensation for slaves forbidden.
39. Divorces.

SECTIONS.

40. Private or special legislation not allowed.
41. Lotteries forbidden.
42. Contested elections.
43. Ineligibility of non-accounting officers.
44. Power to alter proceedings in law and equity.
45. Suits against the State.
46. Maintenance of the poor.
47. Restriction upon municipal corporations.
48. Corporations—general laws—dues from—liability of stockholders—to be taxed—right of way to be prepaid—jury to ascertain damages.
49. General laws for organization of cities and villages—restriction upon powers.
50. Banking—securities—liability of stockholders—national banks excepted.
51. Adjournment to be at noon, on last day of session.

ARTICLE VI. — *Executive Department.*

1. Officers of executive department—how chosen—terms.
2. Supreme executive power vested in Governor.
3. Qualifications of Governor.
4. Must receive highest number of votes—when elected by General Assembly—commander-in-chief—to transact business with other officers—may require information.
5. To see that the laws are faithfully executed.
6. May convene the General Assembly.
7. To communicate by message to General Assembly.
8. May convene General Assembly at other places in certain cases.
9. Pardoning power—limit in case of treason, and impeachments—to report to General Assembly.
10. Lieutenant-governor, when to act as Governor.
11. President of the Senate, when to act as Governor.
12. Lieutenant-governor President of the Senate.
13. Governor may not hold certain offices.
14. Pay of persons acting as Governor.
15. Official acts, how authenticated—great seal.
16. To appoint notaries public.
17. Commissions to be sealed and signed.
18. Officers that must reside at seat of government—records to be kept there.
19. Return and canvass of elections—contested elections, how determined.
20. Duties of Secretary of State.
21. Duties of Auditor, Treasurer, Attorney-general, and Superintendent of Public Instruction.
22. Vacancies in offices above named.
23. Commissioner of Public Works—duties—salary.
24. Salaries of officers of executive department.
25. Officers of executive department and judges not eligible to other offices.
26. Returns of elections, to whom made—Governor to commission those elected.

ARTICLE VII. — *Judiciary.*

1. Judicial power, how vested.
2. Impeachments—mode of proceeding—officers liable to—limitation of judgment.
3. Supreme Court—terms—how organized.
4. Jurisdiction of Supreme Court.
5. Inferior courts continued—others may be created—appointment of judges.
6. Style of writs and processes.
7. Cases in which a judge may not preside.
8. Special appointment of judges in certain cases.

SECTIONS.

9. Proceedings in case of absence of a judge.
10. Exchange of circuits by judges.
11. Judges not to charge as to matters of fact—to instruct and charge juries in writing.
12. Qualification of judges.
13. Pay of judges—not to be diminished during their term.
14. Terms of inferior courts.
15. Appeals, how taken.
16. Vacancies in office of judge.
17. Clerks of record.
18. Clerk of Supreme Court—reporter—decisions, how filed and published.
19. County clerks.
20. Justices of the peace—jurisdiction.
21. Suitors may prosecute or defend in person.
22. Testimony of parties interested—exclusion of witnesses in certain cases.

ARTICLE VIII. — *Franchisee.*

1. Elections to be by ballot.
2. Qualification of electors.
3. Persons excluded from registration.
4. Removal of disabilities.
5. Oath to be taken upon registration—penalties for false oath.
6. Privileges of electors.
7. Prohibition of intoxicating liquors at elections.

ARTICLE IX. — *Education.*

1. Free schools to be established—school ages—to be free from sectarian control.
2. Superintendent of Public Instruction.
3. State university.
4. School fund—its sources.
5. School fund not to be invested in bonds of any State, county, city, town, or corporation, but in bonds of United States.
6. Schools must be maintained—children required to attend school.
7. Deficiencies in school fund to be supplied by taxes.
8. Property held for schools to be reduced to the school fund.
9. School-houses to be erected.

ARTICLE X. — *Finances, Taxation, Public Debt, and Expenditures.*

1. Poll taxes limited to those for schools.
2. Taxation to be uniform—property exempted—appraisal of property.
3. Taxation of banks.
4. Revenue for expenses of the State—interest on State debt.
5. Laws for levying taxes.
6. Loan of State credit.
7. Reports of receipts and expenditures.
8. Payments from treasury only by law.
9. Limitation upon State debts.
10. Debts for public defense—payments of outstanding indebtedness.
11. Sinking fund—how derived.
12. Commissioners of the sinking fund.
13. Reports to General Assembly—provision to be made for payments.
14. Moneys to be faithfully applied to the purposes for which raised.
15. School lands—proceeds applied to schools.
16. State never to assume local debts, unless incurred for public defense.
17. Taxation of privileges and pursuits of no real use to society.

ARTICLE XI. — *Militia.*

1. Persons liable to military duty—exemptions.
2. Militia to be armed and disciplined.
3. Governor to be commander-in-chief—may call out militia in certain cases.

ARTICLE XII. — *Exempted Property.*

SECTIONS.

1. Exemption of personal property.
2. Homesteads not to be incumbered except in certain cases.
3. Amount of homestead exemption allowed.
4. Rights of widow in a homestead.
5. Homestead exemption in favor of minor children.
6. Property of married women—registration of their separate property, and its exemption from a husband's debts.

ARTICLE XIII. — *Amendments to the Constitution.*

1. Amendments by General Assembly — to be ratified by the people.
2. If two or more amendments, they are to be submitted separately.

ARTICLE XIV. — *Apportionment.*

1. Congressional districts to remain—if not re-apportioned by next General Assembly.
2. Present senatorial and representative districts—number to be elected from each.

ARTICLE XV. — *Miscellaneous Provisions.*

1. Constitution to be filed in Secretary's office, and laid before Congress.
2. General Assembly to determine mode of filling vacancies in offices — to define their powers — fix salaries.
3. Elections, when held — biennial.
4. Elections in cities and villages in 1868.
5. Tenure of township and precinct offices.
6. Prosecuting attorney in each judicial district.
7. Compensation of Senators and Representatives.
8. Mileage of Senators and Representatives.
9. Pay of salaries to be from taxes.
10. Funds not to be diverted from their purpose.
11. Revision of statutes and of codes — pay of commissioners.
12. Counties not to be reduced below 600 square miles.

SECTIONS.

13. Indentures executed out of State for service over one year to be void — exception in case of apprentices—limit of the latter.
14. Contracts for sale of slaves void.
15. Great seal—to be kept by Secretary—former seal continued until changed.
16. Private seals abolished — no distinction between sealed and unsealed instruments on contracts—vested right not impaired.
17. Official oaths.
18. Term of officers appointed under Constitution.
19. Delegates or officers of convention not precluded from holding office.
20. Qualification of jurors.
21. Rate of interest to be fixed by law — no restriction of interest fixed by contract.
22. Judges and clerks of election to take the oath of an elector — and an oath of office — penalty for refusal.

SCHEDULE.

1. Election first held for choice of officers and on adoption of Constitution.
2. Every qualified elector may vote.
3. Votes for or against Constitution, but not on a separate ballot.
4. Board of commissioners named — election, when held.
5. Returns to be made to commissioners.
6. Contested elections — judges and clerks of municipal elections.
7. County boards to decide contested cases.
8. Power of commissioners.
9. Result to be declared—if adopted, the president of convention to transmit a copy for Congress.
10. Exclusion of persons not registered — officers, when to qualify.
11. Present incumbents to vacate offices.
12. Persons allowed to vote — oath to be taken.
13. Proceedings in case either of commissioners be a candidate for office.
14. Vacancies that may arise from death of commissioners.
15. Penalty for selling liquors on election day.
16. Poll-books—instructions—pay of judges and clerks of elections.
17. Pay of commissioners — how paid.

PREAMBLE.

We, the people of the State of Arkansas, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution:

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers, as the same may have been, or may be, defined by the Supreme Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert, or resist the supreme authority of the United States. The Constitution of the United States confers full power on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the States, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

§ 2. The liberty of the press shall forever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

§ 3. The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty on account of race, color, or previous condition.

§ 4. The citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to petition for the redress of grievances and other proper purposes.

§ 5. The citizens of this State shall have the right to keep and bear arms for their common defense.

§ 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

§ 7. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted; nor witnesses be unreasonably detained.

§ 8. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or judicial district wherein the crime shall have been committed — which county or district shall have been previously ascertained by law — and to be informed of the nature and cause of the accusation against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defense.

§ 9. No person shall be held to answer a criminal offense unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases of petit larceny, assault, assault and battery, affray, vagrancy, and such other minor cases as the General Assembly shall make cognizable by justices of the peace; or arising in the army or navy of the United States, or in the militia when in actual service in time of war or public danger; and no person, after having been once acquitted by a jury, for the same offense shall be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury and commit or bail the accused for trial at the same or next term of said court; nor shall any person be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses — murder and treason — when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless where, in cases of rebellion or invasion, the public safety may require.

§ 10. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay; conformably to the laws.

§ 11. Treason against the State shall only consist in levying war against the same, or in adhering to its enemies, giving them aid and

comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 12. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

§ 13. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

§ 14. No person shall be imprisoned for debt in this State; but this shall not prevent the General Assembly from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of debts or liabilities.

§ 15. Private property shall not be taken for public use without just compensation therefor.

§ 16. The military shall be subordinate to the civil power. No standing army shall be kept up in this State in time of peace, and no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

§ 17. Suits may be brought by or against the State in such manner and in such courts as may be by law provided.

§ 18. The General Assembly shall not grant to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

§ 19. The right of suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence from bribery, tumult, or other improper conduct.

§ 20. Foreigners who are, or may become, *bona fide* residents of this State, shall be secured the same rights in respect to the acquisition, possession, enjoyment, and descent of property as are secured to native-born citizens.

§ 21. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion; and the mode of administering an oath or affirmation shall be such as

shall be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

§ 22. Any person who shall, after the adoption of this Constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, either within this State or elsewhere, shall thereby be deprived of the right of holding any office of honor or profit in this State, and shall be forever disqualified from voting at any election, and shall be punished otherwise in such manner as may be prescribed by law.

§ 23. Religion, morality, and knowledge being essential to good government, the General Assembly shall pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

§ 24. All lands in this State are declared to be allodial; and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be held a conveyance in fee to the lessee.

§ 25. The action of the Convention of the State of Arkansas, which assembled in the city of Little Rock, on the 4th day of March, 1861, was and is null and void. All the action of the State of Arkansas under the authority of said Convention, of its ordinances or its Constitution, whether legislative, executive, judicial, or military, was and is hereby declared null and void; and no debt or liability of the State of Arkansas incurred by the action of said Convention, or of the General Assembly, or any department of the government under the authority of either, shall ever be recognized as obligatory; *Provided*, That this ordinance shall not be so construed as to affect the rights of private individuals arising under contracts between the parties, or to change county boundaries or county seats, or to make invalid the acts of the justices of the peace, or other officers, in their authority to administer oaths or take and certify the acknowledgments of deeds of conveyances, or other instruments of writing, or in the solemnization of marriage.

ARTICLE II.

BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning at the middle of the main channel of the Mississippi river, on the parallel of 36° north latitude; running from thence west, with the

said parallel of latitude, to the St. Francis river; thence up the middle of the main channel of said river to the parallel of $36^{\circ} 30'$ north; from thence west with the boundary line of the State of Missouri to the southwest corner of that State, and thence to be bounded on the west to the north bank of Red river as by acts of Congress and treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red river by the boundary line of the State of Texas, to the northwest corner of the State of Louisiana; thence east with the Louisiana State line to the middle of the main channel of the Mississippi river; thence up the middle of the main channel of said river, including an island in said river known as "Belle Point Island," to the 36° of north latitude, the place of beginning.

ARTICLE III.

The seat of government shall be at Little Rock, where it is now established.

ARTICLE IV.

SECTION 1. The powers of government are divided into three Departments: the legislative, the executive, and the judicial.

§ 2. No person belonging to one Department shall exercise the powers properly belonging to another, excepting in the cases expressly provided in this Constitution.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power in this State shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

§ 2. The General Assembly shall meet every two years, on the first Monday of January, at the seat of government until altered by law; but the first General Assembly elected after the adoption of this Constitution shall meet on the second (2d) day of April, A. D. one thousand eight hundred and sixty-eight (1868).

§ 3. The House of Representatives shall consist of members chosen every second year by the qualified electors of the several districts.

§ 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector, as provided in this Constitution.

§ 5. The Senate shall consist of members chosen every fourth year by the qualified electors of the several districts.

§ 6. No person shall be a member of the Senate who shall not have attained the age of twenty-five (25) years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not at the time of his election have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector, as provided in this Constitution.

§ 7. The number of members composing the Senate shall be twenty-six (26), and of the House of Representatives eighty-two (82).

§ 8. The General Assembly shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and seventy-five (1875), and every tenth year thereafter; and the first General Assembly elected after each enumeration so made, and also after each enumeration made by the authority of the United States, may re-arrange the Senatorial and Representative districts according to the number of inhabitants, as ascertained by such enumeration: *Provided*, That there shall be no apportionment other than that made in this Constitution, until after the enumeration to be made in the year one thousand eight hundred and seventy-five (1875).

§ 9. Senators shall be chosen at the same time and in the same manner that members of the House of Representatives are required to be. Senatorial districts shall be composed of convenient contiguous territory, and no Representative district shall be divided in the formation of a Senatorial one. The Senatorial districts shall be numbered in regular series, and the term of Senators chosen for the districts designated by odd numbers shall expire in two (2) years, and the term of Senators chosen for the districts designated by even numbers shall expire in four (4) years; but thereafter Senators shall be chosen for the term of four years, excepting when an enumeration of the inhabitants of the State is made, in which case, if a re-arrangement of the Senatorial districts is made, the regulation above stated shall govern the term of office.

§ 10. Removals of Senators and Representatives from their respective districts shall be deemed a vacation of their office.

§ 11. No person holding any office under the United States, or this State, or any county office, excepting Postmasters, Notaries Public, officers of the militia, and township officers, shall be eligible to or have a seat in either branch of the General Assembly, and all votes given for any such person shall be void.

§ 12. Senators and Representatives shall, in all cases (treason, felony, or breach of the peace excepted), be privileged from arrest

during the session of the General Assembly; they shall not be subject to any civil process during the session of the General Assembly, or for fifteen days next before the commencement and next after the termination of each session; and they shall not be questioned in any other place for remarks made in either House.

§ 13. A majority of the members of each House shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each House may prescribe.

§ 14. Each House shall choose its own officers, determine the rules of its proceedings, judge of the qualifications, election, and return of its members, and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents at the time of his election. The reasons for any such expulsion shall be entered upon the journal, with the names of the members voting thereon.

§ 15. The General Assembly shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor, and shall prohibit all charges for constructive labor. They shall not rescind or alter any contract for such printing, or release the person or persons taking the same, or his or their securities, from the performance of any of the provisions of said contract.

§ 16. Each House shall keep a journal of its proceedings, and publish the same, excepting such parts as may require secrecy. The yeas and nays of the members of either House, upon any question, shall be entered on the journal at the request of five members. Any member of either House may dissent and protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

§ 17. In all elections by either House, or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the Senate shall be taken by yeas and nays, and published with the journal of its proceedings,

§ 18. The doors of each House shall be open, unless the public welfare requires secrecy. Neither House shall, without the consent of the other, adjourn for more than three (3) days, nor to any other place than where the General Assembly may then be in session.

§ 19. Bills may originate in either House of the General Assembly, but all bills for raising revenue shall originate in the House of Representatives, though the Senate may propose amendments, as on other bills.

§ 20. No portion of the public funds or property shall ever be

appropriated by virtue of any resolution. No appropriation shall be made except by a bill duly passed for that purpose.

§ 21. Every bill and joint resolution shall be read three times, on different days, in each House, before the final passage thereof, unless two-thirds of the House where the same is pending shall dispense with the rules. No bill or joint resolution shall become a law without the concurrence of a majority of all the members voting. On the final passage of all bills the vote shall be taken by yeas and nays, and entered on the journal.

§ 22. No act shall embrace more than one subject, which shall be embraced in its title. No public act shall take effect or be in force until ninety days from the expiration of the session at which the same is passed, unless it is otherwise provided in the act.

§ 23. No law shall be revised, altered or amended, by reference to its title only, but the act revised, and the section or sections of the act as altered or amended, shall be enacted and published at length.

§ 24. No new bill shall be introduced into either House during the last three days of the session, without the unanimous consent of the House in which it originated.

§ 25. The General Assembly, at its first session, shall provide suitable laws for the registration of qualified electors, and for the prevention of frauds in elections.

§ 26. The General Assembly shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

§ 27. The style of the laws of the State shall be, "Be it enacted by the General Assembly of the State of Arkansas."

§ 28. The General Assembly may enact laws providing for county, township, or precinct governments.

§ 29. It shall be the duty of the General Assembly, from time to time as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

§ 30. The General Assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

§ 31. The General Assembly may pass laws authorizing appeals in criminal or penal cases, and regulating the right of challenge by jurors therein.

§ 32. The General Assembly shall direct by law when and how juries shall be selected from judicial districts in criminal and civil cases.

§ 33. The General Assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

§ 34. The General Assembly may declare the cases in which any office shall be deemed vacant, and also for the manner of filling the vacancy, where no provision is made for that purpose in this Constitution.

§ 35. Every bill and concurrent resolution, except of adjournment, passed by the General Assembly, shall be presented to the Governor for approval before it becomes a law. If he approve, he shall sign it; if not, he shall return it with his objections to the House in which it originated, which shall enter the objections at large upon its journal, and reconsider it. On such reconsideration, if a majority of the members elected agree to pass the bill, it shall be sent with the objections to the other House by which it shall be reconsidered. If approved by a majority of the members elected to that House, it shall become a law. In such cases the vote of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each House respectively. If any bill be not returned by the Governor within three (3) days (Sundays excepted) after it has been presented to him, the same shall become a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall not become a law. The Governor may approve, sign and file in the office of the Secretary of State, within three days after the adjournment of the General Assembly, any act passed during the last three (3) days of the session, and the same shall become a law.

§ 36. Each House may punish, by imprisonment during its session, any person, not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence; but no such imprisonment shall at any time exceed twenty-four (24) hours.

§ 37. No citizen of this State shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless the same is done by the law of the land or the judgment of his peers, except as hereinafter provided. There shall be neither slavery nor involuntary servitude, either by indentures, apprenticeship, or otherwise, in the State, except for the punishment of crime, whereof the party shall have been duly convicted.

§ 38. The General Assembly shall have no power to make compensation for emancipated slaves.

§ 39. The General Assembly shall have no power to grant divorces, to change the names of individuals, or to direct the sale of estates belonging to infants or other persons laboring under legal disabilities,

by special legislation; but, by general laws, shall confer such powers on the courts of justice.

§ 40. The General Assembly shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person, or vacate or alter any road laid out by legal authority, or any street in any city or village, or in any recorded town plat, but shall provide for the same by general laws.

§ 41. The General Assembly shall not authorize any lottery, and shall prohibit the sale of lottery tickets.

§ 42. In case of a contested election, only the claimant decided entitled to the seat, in either House in which the contest may take place, shall receive from the State per diem compensation and mileage.

§ 43. No collector, holder, or disburser of public moneys shall have a seat in the General Assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid over, as provided by law, all sums for which he is liable.

§ 44. The General Assembly shall have power to alter and regulate the jurisdiction and proceedings in law and equity, subject to the provisions of this Constitution.

§ 45. The General Assembly shall direct by law in what manner and in what courts suits may be brought by and against the State.

§ 46. It shall be the duty of the General Assembly to make adequate provision for the maintenance of paupers throughout the State.

§ 47. The General Assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, or to levy any tax on real or personal property to a greater extent than two (2) per centum of the assessed value of the same.

§ 48. The General Assembly shall pass no special act conferring corporate powers. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law; but in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascer-

tained by a jury of twelve (12) men in a court of record, as shall be prescribed by law.

§ 49. The General Assembly shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

§ 50. All corporations with banking and discounting privileges shall, preparatory to issuing bills as currency, deposit the bonds of this State, equal in amount to the capital stock of such corporation, with the Auditor of the State, who shall not permit an issue of circulation exceeding eighty (80) per centum of the amount of bonds so deposited, such circulation being receivable for all taxes and dues to the State, and the individual liability of stockholders shall be as hereinbefore directed: *Provided*, That, corporations chartered or existing under any act of Congress of the United States shall be exempted from these provisions.

§ 51. The General Assembly, on the day of final adjournment, shall adjourn at twelve (12) o'clock at noon.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive Department of this State shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Attorney-General, and Superintendent of Public Instruction, all of whom shall hold their several offices for the term of four years and until their successors are elected and qualified. They shall be chosen by the qualified electors of this State at the time and places of choosing the members of the General Assembly.

§ 2. The supreme executive power of this State shall be vested in the Governor.

§ 3. No person shall be eligible to the office of Governor or Lieutenant-Governor who shall not have attained the age of twenty-five years, who shall not have been five years a citizen of the United States, who shall not, at the time of his election, have had an actual residence in this State for one year next preceding his election, and who shall not be a qualified elector as prescribed in this Constitution.

§ 4. In elections for Governor and Lieutenant-Governor, the person having the highest number of votes shall be declared elected. But

in case that two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant-Governor, the General Assembly shall, by joint vote, choose one of such persons. The Governor shall be commander-in-chief of the military and naval forces of the State, and may call out such forces to execute the laws, suppress insurrections, repel invasions, or preserve the public peace. He shall transact all necessary business with other officers of the State government, and may require information in writing of the officers of the Executive Department upon any subject pertaining to the duties of their respective offices.

§ 5. It shall be the duty of the Governor to see that the laws are faithfully executed.

§ 6. He may convene the Legislature on extraordinary occasions.

§ 7. He shall give to the General Assembly, and at the close of his official term to the next General Assembly, information by message concerning the condition of the State, and recommend such means to their consideration as he may deem expedient.

§ 8. He may convene the General Assembly at some other place when the seat of government becomes dangerous from the prevalence of disease, or the presence of a common enemy.

§ 9. He may grant reprieves, pardons and commutations after conviction for all offenses, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper; subject, however, to such regulations as may be prescribed by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend execution of the sentence until the matter shall be reported to the General Assembly at its next session, when the General Assembly shall either pardon, commute the sentence, direct the execution of the same, or grant a further reprieve. The Governor shall communicate to the General Assembly at each session information concerning each case of pardon, reprieve or commutation granted, and the reasons therefor.

§ 10. In case of the impeachment of the Governor, his removal from office, death, resignation, inability or removal from the State, the powers and duties of the Governor shall devolve upon the Lieutenant-Governor during the residue of the term, or until the disabilities of the Governor are removed.

§ 11. During a vacancy in the office of Governor, if the Lieutenant-Governor resign, be impeached, displaced, absent from the State or incapable of acting, the President *pro tempore* of the Senate shall act as Governor until the vacancy be filled, or the disability cease.

§ 12. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, and when there is an equal division he shall give the casting vote.

§ 13. No member of Congress or any person holding any office under the United States, or this State, shall execute the office of Governor.

§ 14. The Lieutenant-Governor and the President of the Senate *pro tempore* while performing the office of Governor, shall receive the same compensation as the Governor.

§ 15. All official acts of the Governor — his approval of the laws excepted — shall be authenticated by the great seal of the State, which seal shall be kept by the Secretary of State.

§ 16. The Governor shall, by and with the advice and consent of the Senate, appoint a convenient number of Notaries Public, not to exceed six for each county, who shall discharge such duties as are now, or as may hereafter be, prescribed by law.

§ 17. All commissions issued to persons holding office under the provisions of this Constitution shall be in the name and by the authority of the people of the State of Arkansas, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

§ 18. The Governor, Chief Justice, Secretary of State, Treasurer, Auditor, Attorney-General, and Superintendent of Public Instruction shall severally reside and keep all public records, books, papers and documents which may pertain to their respective offices at the seat of government.

§ 19. The returns of every election for Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Attorney-General, and Superintendent of Public Instruction shall be sealed up and transmitted to the seat of government by the returning officers, and directed to the presiding officer of the Senate, who, during the first week of the sessions, shall open and publish the same in presence of the members then assembled. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a joint vote of both Houses. Contested elections shall likewise be determined by both Houses of the General Assembly, in such manner as is or may hereafter be prescribed by law.

§ 20. The Secretary of State shall keep a fair record of all official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before

the General Assembly, and shall perform such other duties as are now or may hereafter be prescribed by law.

§ 21. The Auditor, Treasurer, Attorney-General, and Superintendent of Public Instruction shall perform such duties as are now or may hereafter be prescribed by law.

§ 22. In case of the death, impeachment, removal from the State or other disability of the Secretary of State, Treasurer, Auditor, Attorney-General, and Superintendent of Public Instruction, the vacancies in their several offices thus occasioned shall be filled by appointment of the Governor, which appointment shall be made for the unexpired terms of said officers, or until said disabilities are removed or until elections are held to fill said vacancies.

§ 23. Until the General Assembly shall otherwise provide, the Governor shall appoint a suitable person, who shall be styled Commissioner of Public Works and Internal Improvements, who shall hold his office during the term of four years, and until his successor is duly commissioned and qualified. It shall be the duty of the Commissioner of Public Works and Internal Improvements, to superintend all public works which may be carried on by the State, and have a supervising control over all internal improvements in which the State is interested, and, until otherwise provided by the General Assembly, he shall be, *ex-officio*, Commissioner of Immigration and State Lands, and shall perform such other duties as may be prescribed by law. He shall receive for his services the same salary as provided by law for the Auditor of State.

§ 24. The officers of the Executive Department, mentioned in this article, shall, at stated times, receive for their services a compensation to be established by law, which shall not be diminished during the period for which they shall have been elected or appointed.

§ 25. The officers of the Executive Department and Judges of the Supreme Court shall not be eligible, during the period for which they may be elected or appointed to their respective offices, to any position in the gift of the qualified electors, or of the General Assembly of this State.

§ 26. The returns of every election for State, county, and judicial officers, not herein provided for, shall be sealed up and transmitted to the seat of government by the returning officers, and directed to the Secretary of State, who shall open and publish the same, and the persons so elected shall be duly commissioned by the Governor.

ARTICLE VII.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, a Supreme Court, Circuit Courts, and such other courts inferior to the Supreme Court, as the General Assembly may from time to time establish.

§ 2. The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members thereof. The Chief Justice shall preside, and the Secretary of State shall act as clerk of this court: *Provided, That*, in case of the trial of either of them, the person appointed temporarily to perform the duties of the office shall act. The Governor, and all other civil officers under this State, shall be liable to impeachment for any misconduct or maladministration of their respective offices; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, and judgment, according to law.

§ 3. Two terms of the Supreme Court shall be held at the seat of government annually: *Provided, That* the General Assembly may provide by law for holding said court at three other places. The Supreme Court shall consist of one Chief Justice, who shall be appointed by the Governor, by and with the advice and consent of the Senate, for the term of eight years, and four Associate Justices, who shall be chosen by the qualified electors of the State at large for the term of eight years: *Provided, That* two of the Associate Justices first chosen under this Constitution shall serve for four years after the next general election, and two of them for eight years after said election: said times to be determined by lot; but thereafter the Associate Justices shall be chosen for the full term.

§ 4. The Supreme Court shall have general supervision and control over all inferior courts of law and equity. It shall have power to issue writs of error, supersedeas, certiorari, habeas corpus, mandamus, quo warranto, and other remedial writs, and to hear and determine the same. Final judgments in the inferior courts may be brought by writ of error or by appeal into the Supreme Court, in such manner as may be prescribed by law.

§ 5. The inferior courts of the State, as now constituted by law, except as hereinafter provided, shall remain with the same jurisdiction as they now possess: *Provided*, That the General Assembly may provide for the establishment of such inferior courts, changes of jurisdiction, or abolition of existing inferior courts as may be deemed requisite. The Judges of the inferior courts herein provided for, or of such as may hereafter be established by law, shall be appointed by the Governor, by and with the advice and consent of the Senate, for the term of six years, and until such time as the General Assembly may otherwise direct: *Provided*, That the General Assembly shall not interfere with the term of office of any judge.

§ 6. All writs and other processes shall run in the name of the State of Arkansas, and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

§ 7. No Judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity, or consanguinity within such degrees as may be prescribed by law, or in which he may have been counsel or have presided in any inferior court.

§ 8. In case all or any of the Judges of the Supreme Court shall be disqualified from presiding on any cause or causes, the court or Judges thereof shall certify the same to the Governor of the State, and he shall immediately commission, specially, the required number of men learned in the law for the trial and determination thereof.

§ 9. Whenever, at ten o'clock, A. M., of the second day of any term of the inferior courts of this State, the Judge thereof is not present, or if present and he cannot for any cause properly preside at the trial of any case then pending therein, the attorneys of said court then present may elect a Special Judge, who shall preside during the trial of such case or cases, or shall hold said court until the appearance of the regular judge thereof. The proceedings in such cases shall be entered at large upon the record.

§ 10. The Judges of the inferior courts may temporarily exchange circuits or hold courts for each other under such regulations as may be prescribed by law.

§ 11. Judges shall not charge juries with regard to matters of fact, but shall declare the law. In all trials by jury the Judges shall give their instructions and charges in writing; and if the trial is by the court, he shall reduce to writing his findings upon the facts in the case, and shall declare the law in the same manner he is required to do when instructing juries.

§ 12. Any Judge whose appointment or election is herein provided for shall be at least twenty-five years of age, a qualified elector of his State, and shall have been for one year an actual resident of the State, and shall reside in the circuit or district to which he may be appointed or elected.

§ 13. The Judges of the Supreme and inferior courts shall, at stated times, receive a compensation for their services as is now or may hereafter be provided by law, and which shall not be diminished during the respective terms for which they may be elected or appointed.

§ 14. The inferior courts shall hold annually such terms as the General Assembly may direct.

§ 15. All appeals from inferior courts shall be taken in such manner and to such courts as may be provided by law; appeals may be taken from courts of justices of the peace to such courts and in such manner as may be prescribed by law.

§ 16. When a vacancy occurs in the office of Judge of the Supreme, or any of the inferior courts, it shall be filled by appointment of the Governor; which appointee shall hold his office the residue of the unexpired term, and until his successor is elected and qualified.

§ 17. The Supreme Court and such other courts as may be established by law, shall be courts of record, and shall each have a common seal.

§ 18. The Supreme Court shall appoint a Clerk of such court, and also a Reporter of its decisions. The decisions of the Supreme Court shall be in writing, and signed by the Judges concurring therein; any Judge dissenting therefrom shall give the reasons of such dissent in writing, under his signature; all such decisions shall be filed in the office of the clerk of the Supreme Court, and be published in such manner as the General Assembly may direct. The Clerk and Reporter shall hold their respective offices for the term of six years, subject to removal by the court for cause.

§ 19. A County Clerk shall be elected by the qualified electors in each organized county in this State, for the term of four years, and shall perform such duties and receive such fees as are now or may hereafter be prescribed by law.

§ 20. In each township in this State, there shall be elected, by the qualified electors thereof, two Justices of the Peace, who shall hold their offices for the term of four years: *Provided*, That in such townships, as may contain more than two hundred qualified electors, an additional Justice of the Peace may be chosen.

Justices of the Peace shall have exclusive original jurisdiction in all actions of contract and replevin where the amount in controversy does.

not exceed two hundred dollars, and concurrent jurisdiction with the Circuit Court where the amount in controversy does not exceed five hundred dollars.

In criminal cases the jurisdiction of Justices of the Peace shall extend to all cases less than felony for final determination and judgment.

§ 21. Any suitor in any court in this State shall have the right to prosecute or defend his suit in his own proper person or by attorney.

§ 22. In the courts of this State there shall be no exclusion of any witness in civil actions because he is a party to, or is interested in, the issue to be tried, and no person convicted of infamous crime, shall be a competent witness in any case, without the consent of both parties to the controversy: *Provided*, That in actions by or against executors, administrators or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transactions with or statements to the testator, intestate or ward, unless called thereto by the opposite party, or required to testify thereto by the court. The Judges of the Supreme Court and all inferior courts shall be conservators of the peace throughout their respective jurisdictions.

ARTICLE VIII.

FRANCHISE.

SECTION 1. In all elections by the people the electors shall vote by ballot.

§ 2. Every male person born in the United States, and every male person who has been naturalized, or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, No soldier, or sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

§ 3. The following classes shall not be permitted to register or hold office, viz.:

1. Those who during rebellion took the oath of allegiance, or gave bonds for loyalty and good behavior to the United States government, and afterward gave aid, comfort, or countenance to those engaged in armed hostility to the government of the United States, either by becoming a soldier in the rebel army, or by entering the lines of said army, or adhering in any way to the cause of rebellion, or by accom-

panying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same.

2. Those who are disqualified as electors, or from holding office in the State or States from which they came.

3. Those persons who during the late rebellion violated the rules of civilized warfare.

4. Those who may be disqualified by the proposed amendment to the Constitution of the United States, known as Article XIV, and those who have been disqualified from registering to vote for delegates to the Convention to frame a Constitution for the State of Arkansas, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplemental thereto.

5. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery.

6. Those who are idiots or insane: *Provided*, That all persons included in the first, second, third, and fourth subdivisions of this section, who have openly advocated, or who have voted for the reconstruction proposed by Congress, and accept the equality of all men before the law, shall be deemed qualified electors under this Constitution.

§ 4. The General Assembly shall have the power, by a two-thirds vote of each House, approved by the Governor, to remove the disabilities included in the first, second, third, and fourth subdivisions of section three, of this article, when it appears that such person applying for relief from such disabilities has in good faith returned to his allegiance to the government of the United States: *Provided*, The General Assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions, who, after the adoption of this Constitution by the Convention, persists in opposing the acts of Congress and reconstruction thereunder.

§ 5. All persons before registering or voting must take and subscribe the following oath: "I ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the causes in the first, second, third or fourth subdivisions of article VIII, of the Constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I will accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color or previous condition, of any political or civil right, privilege or immunity enjoyed by any other class of men; and, furthermore, that I will

not, in any way, injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party: *Provided*, That if any person shall knowingly and falsely take any oath in this Constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

§ 6. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

§ 7. It shall be the duty of the General Assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

ARTICLE IX.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence among all classes being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain a system of free schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years; and the funds appropriated for the support of common schools shall be distributed to the several counties in proportion to the number of children and youths therein between the ages of five and twenty-one years, in such manner as shall be prescribed by law; but no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this State.

§ 2. The supervision of public schools shall be vested in a Superintendent of Public Instruction, and such other officers as the General Assembly shall provide. The Superintendent of Public Instruction shall receive such salary, and perform such duties, as shall be prescribed by law.

§ 3. The General Assembly shall establish and maintain a State University, with departments for instruction in teaching, in agriculture, and the natural sciences, as soon as the public school fund will permit.

§ 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by the United States or this State; also, all mines, stocks, bonds, lands, and other property, now belonging to any fund for purposes of

education; also, the net proceeds of all sales of land and other property and effects that may accrue to this State by escheat, or from sales of estrays, or from unclaimed dividends or distributive shares of the estates of deceased persons, or from fines, penalties, or forfeitures; also, any proceeds of the sales of public lands which may have been or may be hereafter paid over to this State (Congress consenting); also, all the grants, gifts, or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the terms of the grant, gift, or devise, shall be securely invested and sacredly preserved as a public school fund, which shall be the common property of the State; the annual income of which fund, together with one dollar *per capita*, to be annually assessed on every male inhabitant of this State over the age of twenty-one years, and so much of the ordinary annual revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools, and the University in this article provided for, and for no other uses or purposes whatever.

§ 5. No part of the public school fund shall be invested in the stocks or bonds or other obligations of any State, or any county, city, town, or corporation. The stocks belonging to any school fund or University fund shall be sold in such manner and at such times as the General Assembly shall prescribe, and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belongs or may hereafter belong to said school fund, may be invested in the bonds of the United States.

§ 6. No township or school district shall receive any portion of the school fund unless a free school shall have been kept therein for not less than three months during the year for which distribution thereof is made. The General Assembly shall require by law that every child of sufficient mental and physical ability shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to three years, unless educated by other means.

§ 7. In case the public school fund shall be insufficient to sustain a free school at least three months in every year, in each school district in this State, the General Assembly shall provide by law for raising such deficiency, by levying such tax upon all taxable property in each county, township, or school district as may be deemed proper.

§ 8. The General Assembly shall, as far as it can be done without infringing upon vested rights, reduce all lands, moneys, or other property used or held for school purposes in the various counties of this State into the public school fund herein provided for.

§ 9. Provision shall also be made, by general laws, for raising such sum or sums of money, by taxation or otherwise, in each school district, as may be necessary for the building and furnishing of a suffi-

cient number of suitable school-houses for the accommodation of all the pupils within the limits of the several school districts.

ARTICLE X.

FINANCES, TAXATION, PUBLIC DEBT, AND EXPENDITURES.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore the General Assembly shall never levy a poll-tax excepting for school purposes.

§ 2. Laws shall be passed taxing by a uniform rule all money credit investment in bonds, joint-stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, shall never be taxed.

Real estate shall be appraised at least once every five years by an Appraiser, to be provided for by law, at its true value in money. Personal property shall be appraised in such manner as may be provided by law at its true value in money, but the General Assembly may exempt from taxation personal property to the value of five hundred dollars (\$500) to each tax payer.

§ 3. The General Assembly shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description, without deduction, of all banks now existing, or hereafter created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on other property of individuals.

§ 4. The General Assembly shall provide for raising revenue sufficient to defray the expenses of the State, for each year; and also a sufficient sum to pay the interest on the State debt.

§ 5. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same.

§ 6. The credit of the State or counties shall never be loaned for any purpose without the consent of the people thereof, expressed through the ballot-box.

§ 7. The General Assembly may require the exhibit of receipts and expenditures of State and county officers, at such time and manner as may be prescribed by law.

§ 8. No money shall be paid out of the treasury until the same shall have been appropriated by law.

§ 9. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; and the

money arising from the creation of such debts shall be appropriated to the purpose for which it was obtained, or to pay the debt so contracted, and to no other.

§ 10. In addition to the above power, the State may contract debts to repel invasion, suppress insurrection, preserve the public peace, defend the State in time of war, or to redeem the present outstanding indebtedness of the State; but the money arising from the contracting of such debts shall be applied to the purposes for which it was raised and no other, and all debts incurred to redeem the present outstanding indebtedness of the State shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

§ 11. The faith of the State being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund; which shall be sufficient to pay the accruing interest on such debt, and annually to reduce the same. The said sinking fund shall consist of such net earnings and profits of public institutions, bonds, stocks, or other property of the State, or of any other fund or resources that are or may be provided by law.

§ 12. The Governor, Secretary of State and Attorney-General are hereby created a Board of Commissioners, to be styled "The Commissioners of the Sinking Fund."

§ 13. The Commissioners of the Sinking Fund shall, immediately preceding each regular session of the General Assembly, make an estimate of the probable amount of the fund provided by the eleventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, and transmit the same to the General Assembly, and the General Assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

§ 14. It shall be the duty of said Commissioners faithfully to apply, in such manner as the General Assembly may by law direct, said fund, together with all moneys that may be, by the General Assembly, appropriated to that object, to the payment of the interest as it becomes due and the redemption of the principal of the public debt of the State, excepting only school and trust funds held by the State.

§ 15. The principal arising from the sale of all lands donated to the State for school purposes shall be paid into the treasury, and the State shall pay interest thereon for the support of schools at the rate of six per cent per annum.

§ 16. The State shall never assume the debts of county, town, city, or other corporations, unless such debts have been created to repel inva-

sion, suppress insurrection, or to provide for the public welfare and defense.

§ 17. The General Assembly shall tax all privileges, pursuits, and occupations that are of no real use to society; all others shall be exempt, and the amount thus raised shall be paid into the treasury.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied electors in this State shall be liable to military duty in the militia of this State, but all citizens of any denomination whatever who, from scruples of conscience, may be adverse to bearing arms, shall be exempt therefrom upon such conditions as may be prescribed by law.

§ 2. The General Assembly shall provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

§ 3. The Governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, to repel invasion, and to preserve the public peace.

ARTICLE XII.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this State to the value of \$2,000, to be selected by such resident, shall be exempted from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this Constitution.

§ 2. Hereafter the homestead of any resident of this State, who is a married man or head of a family, shall not be incumbered in any manner while owned by him, except for taxes, laborers' and mechanics' liens, and securities for the purchase-money thereof.

§ 3. Every homestead not exceeding 160 acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village; or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of \$5,000, shall be exempted from sale on execution or any other final process from any court; but no property shall be exempt from sale for taxes, for the payment of obligations contracted for the purchase of said premises, for the erection of improvements thereon, or for labor performed for the owner thereof:

Provided, That the benefit of the homestead herein provided for shall not be extended to persons who may be indebted for dues to the State, county, township, school, or other trust funds.

§ 4. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

§ 5. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts in all cases during the minority of his children, and also so long as his widow shall remain unmarried, unless she be the owner of a homestead in her own right.

§ 6. The real and personal property of any female in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain the separate estate and property of such female, and may be devised or bequeathed by her the same as if she were a *feme sole*. Laws shall be passed providing for the registration of the wife's separate property, and when so registered, and so long as it is not intrusted to the management or control of her husband, otherwise than as an agent, it shall not be liable for any of his debts, engagements, or obligations.

ARTICLE XIII.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendments to this Constitution may be proposed in either House of the General Assembly, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on the journals, with the yeas and nays taken thereon, and referred to the Legislature, to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the General Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

§ 2. If two or more amendments shall be submitted at the same

time, they shall be submitted in such manner that the electors shall vote for or against each of said amendments separately.

ARTICLE XIV.

APPORTIONMENT.

SECTION 1. The Congressional districts shall remain as they now are: *Provided*, That the General Assembly may, at the first session held after the adoption of this Constitution, re-district the State for Congressional purposes.

§ 2. Until after the apportionment, as herein provided for, the Senatorial and Representative districts shall be composed of the following counties, to wit: 1st. Jackson, Craighead, Poinsett, Cross and Mississippi; 2d. Lawrence, Randolph and Greene; 3d. Madison, Marion, Carroll, Fulton and Izard; 4th. Independence and Van Buren; 5th. Searcy, Pope and Conway; 6th. Newton, Johnson and Yell; 7th. Washington and Benton; 8th. Crawford, Franklin and Sebastian; 9th. Crittenden, St. Francis and Woodruff; 10th. Pulaski and White; 11th. Phillips and Monroe; 12th. Prairie and Arkansas; 13th. Scott, Polk, Montgomery and Hot Springs; 14th. Hempstead; 15th. Lafayette and Little River; 16th. Union and Calhoun; 17th. Clark, Pike and Sevier; 18th. Columbia; 19th. Ouachita; 20th. Jefferson and Bradley; 21st. Dallas, Saline and Perry; 22d. Ashley, Chicot, Drew and Desha. The Senators and Representatives shall be apportioned among the several Senatorial and Representative districts as follows, to wit:

First District, one Senator and four Representatives; Second District, one Senator and three Representatives; Third District, one Senator and four Representatives; Fourth District, one Senator and three Representatives; Fifth District, one Senator and three Representatives; Sixth District, one Senator and three Representatives; Seventh District, one Senator and four Representatives; Eighth District, one Senator and four Representatives; Ninth District, one Senator and four Representatives; Tenth District, two Senators and six Representatives; Eleventh District, two Senators and six Representatives; Twelfth District, one Senator and four Representatives; Thirteenth District, one Senator and three Representatives; Fourteenth District, one Senator and three Representatives; Fifteenth District, one Senator and three Representatives; Sixteenth District, one Senator and two Representatives; Seventeenth District, one Senator and four Representatives; Eighteenth District, one Senator and three Representatives; Nineteenth District, one Senator and two Representatives; Twentieth District, two Senators and six Representatives;

Twenty-first District, one Senator and two Representatives; Twenty-second District, two Senators and six Representatives.

ARTICLE XV.

MISCELLANEOUS PROVISIONS.

SECTION 1. The President of the Convention shall, immediately after the adjournment thereof, cause this Constitution to be deposited in the office of the Secretary of State, and shall transmit a copy of the same to the President of the United States, to be by him laid before the Congress of the United States.

§ 2. In all cases not otherwise provided for in this Constitution, the General Assembly may determine the mode of filling all vacancies in all offices, and of choosing all necessary officers, and shall define their respective powers and duties, and provide suitable compensation for all officers.

§ 3. All general elections shall be held on the Tuesday succeeding the first Monday in November, and shall be biennial, commencing at the general election of Anno Domini 1868: but all officers elected under the provisions of this Constitution and schedule, except members of Congress, at the election commencing on the 13th day of March, 1868, shall hold and continue in office in accordance with the provisions of this Constitution, the same as though elected at the general election, to be held on the Tuesday succeeding the first Monday in November, 1868; and no election shall be held for said officers at the general election of 1868.

§ 4. All chartered cities and villages under the laws of this State shall hold their municipal elections for the year 1868 at such times and places as may be provided in this Constitution and the schedule to the same.

§ 5. The tenure of office of all township and precinct officers shall expire thirty days after this Constitution goes into effect, and the Governor shall thereafter appoint such officers, whose term of office shall continue until the General Assembly shall provide by law for an election of said officers.

§ 6. Until the General Assembly shall otherwise provide, a Prosecuting Attorney for each judicial circuit shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall hold his office for the term of four years, and until his successor is chosen and qualified: *Provided*, That the General Assembly shall not interfere with the term of any appointed Prosecuting Attorney.

§ 7. The compensation of Senators and Representatives shall be six dollars per diem during the first session after the adoption of this Constitution, but may afterward be prescribed by law: *Provided*, No increase of compensation shall be prescribed which shall take effect until the period for which the members of the House of Representatives then existing shall have expired.

§ 8. Senators and Representatives shall receive twenty cents for each mile necessarily traveled in going to and returning from the seat of government in attending each session of the General Assembly, until otherwise provided by law.

§ 9. All salaries, fees and per diem, or other compensation of all State, county, town, or other officers within the State, shall be payable in such funds as may by law be receivable for State taxes.

§ 10. Any public funds set apart by the General Assembly for one purpose shall not be used for another, unless in each case otherwise specially authorized by law.

§ 11. This Convention shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and re-arrange the statute laws of this State, both civil and criminal, so as to have but one law on any one subject; and, also, three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this State, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the General Assembly for their adoption or modification. The General Assembly shall provide suitable compensation for said persons appointed as aforesaid.

§ 12. No county now established by law shall ever be reduced, by the establishment of any new county or counties, to less than six hundred square miles; nor shall any county be hereafter established which shall contain less than six hundred square miles.

§ 13. No indenture of any person hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, shall be of the least validity, except those given in cases of apprenticeships, which shall not be for a longer term than until the apprentice shall arrive at the age of twenty-one years, if a male, or eighteen years, if a female.

§ 14. All contracts for the sale or purchase of slaves are null and void, and no court of this State shall take cognizance of any suit founded on such contracts, nor shall any amount ever be collected or recovered on any judgment or decree which shall have been or which hereafter may be rendered on account of any such contract or obligation, on any pretext, legal or otherwise.

§ 15. There shall be a great seal of the State, which shall be kept and used officially by the Secretary of State, and the seal heretofore in use in this State shall continue to be the great seal of the State until another shall have been adopted by the General Assembly.

§ 16. Private seals are hereby abolished, and hereafter no distinction shall exist between sealed and unsealed instruments concerning contracts between individuals. All laws of this State, not in conflict with this Constitution, shall remain in full force until otherwise provided by the General Assembly, or until they expire by their own limitation. Nothing herein shall be construed to impair vested rights under existing laws.

§ 17. All officers of this State, executive, legislative and judicial, before they enter upon the duty of their respective offices, shall take the following oath: "I, ———, do solemnly swear (or affirm) that I am not disfranchised by the Constitution or laws of the United States, or the Constitution of the State of Arkansas; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the union of States, and the Constitution and laws of the State of Arkansas, and that I will honestly and faithfully discharge the duties of the office on which I am about to enter, to the best of my ability: so help me God."

§ 18. The term of all officers elected or appointed under the provisions of this Constitution shall expire on the first day of January, 1873, unless herein otherwise provided.

§ 19. No one shall be precluded from being elected or appointed to any office by reason of having been a delegate to this Convention, or an officer of the same.

§ 20. No person shall be allowed or qualified to sit on any jury who is not a qualified elector.

§ 21. The General Assembly may, by general law, declare the legal rate of interest upon contracts in which no rate of interest is specified, but no law limiting the rate of interest for which individuals may contract in this State shall ever be passed.

§ 22. All judges and clerks of election, appointed under provisions of this Constitution, shall take and subscribe to the oath of an elector, as provided in section five of article eight, before they enter upon the duties of said offices; and said judges are hereby authorized to administer the oath to each other and to the clerks; also to administer the same to all electors offering to vote. Said judges and clerks shall also swear to discharge their respective duties to the best of their ability according to law. Judges of election may appoint a suitable number of persons who shall, with themselves, be conservators of the peace, and they are hereby empowered to arrest all offenders. Any

one refusing to act as such, when called on by the judges, shall be subject to a fine of at least \$100, or imprisonment not less than six months, or both.

SCHEDULE.

SECTION 1. On the 13th day of March, A. D. 1868, and such successive days as hereinafter provided, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction, Judges of the Supreme Court, members of the General Assembly, and all county officers, and also for the submission of this Constitution to the people for their adoption or rejection.

§ 2. Upon the days designated as aforesaid, every qualified elector under the provisions of this Constitution may vote for all officers to be elected under this Constitution at such election, and also for or against the adoption of this Constitution.

§ 3. In voting for or against the adoption of this Constitution, the words "for Constitution" or "against Constitution" shall be written or printed on the ballot of each voter; but no voter shall vote for or against this Constitution on a separate ballot from that cast by him for officers to be elected at said election under this Constitution.

§ 4. A Board of Commissioners is hereby appointed, to consist of James L. Hedges, Joseph Brooks, and the President of this Convention, any two of whom shall constitute a quorum to transact business, who shall keep an office for the transaction of business in Little Rock, and who may employ such clerical force as may be necessary, said clerks not to receive more per day for each day actually employed than the per diem paid the assistant secretaries of this Convention, and who are empowered and authorized to appoint, or cause to be appointed, suitable persons for judges and clerks of election in each county in this State to hold the election therein for all State and county officers, and for members of the General Assembly and of the House of Representatives of the United States, and also for the ratification of this Constitution. Said election shall be held at such times and places in each county, commencing on the 13th day of March, and continuing on such successive days as the Commissioners may direct, to secure a full and fair vote at such election.

§ 5. The judges of election, appointed as aforesaid, shall make returns of the same to said Commissioners, in such manner and under such regulations as said Commissioners may prescribe, which returns shall show the number of votes cast at said election for and against this Constitution, and the number cast for each candidate for the offices provided for in this Constitution and schedule.

§ 6. Any person contesting the election under this Constitution for any State officer or member of the General Assembly, shall do so before said Board of Commissioners, who shall have power to decide and declare the right to any office contested, and give the candidate legally elected a certificate of the same: *Provided*, Said Commissioners may, in the cases of members of the General Assembly whose rights to the seats may be contested, refer the same to the General Assembly for their determination. Said Board of Commissioners shall appoint the judges and clerks of the municipal elections to be held under the provisions of this Constitution; said judges shall conduct and make returns of said elections in the manner prescribed by the charter of the city or village in which said municipal election shall be held.

§ 7. Said Commissioners shall appoint suitable persons as Boards in every county to hear and decide all cases of contested county elections.

§ 8. The said Commissioners shall have power to inquire into the fairness or validity of the voting upon the ratification of this Constitution, and to count the votes given at said election, and shall reject all fraudulent or illegal votes cast at said election; and said Commissioners shall also have power, whenever it is made to appear that fraud, fear, violence, improper influence or restraint were used, or persons were prevented or intimidated from voting at such elections, to take steps, either by setting aside the election and ordering a new one, or rejecting votes, or correcting the result in any county or precinct, as may in such cases be just and equitable.

§ 9. The said Commissioners shall declare the result of the election upon the ratification of this Constitution, and, if adopted, the President of this Convention shall transmit a certified copy of the same, together with an abstract of the votes cast, to the President of the United States, to be by him laid before the Congress of the United States for their approval or rejection, and shall also declare the officers elected thereunder, and, if declared ratified, the Constitution shall, from and after that date, be in full force and effect.

§ 10. No person disqualified from voting or registering under this Constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of this Constitution, at the polls herein authorized. The Governor and all other officers elected under this Constitution shall enter upon the duties of their offices when they shall have been declared duly elected by said Board of Commissioners, and shall have duly qualified. All officers shall qualify and enter upon the duties of their offices within fifteen days after they have been duly notified of their election or appointment.

§ 11. Upon notice of the election or appointment and qualification of the officers elected or appointed under this Constitution, the present incumbents of all State, county and city offices shall vacate the same, and turn over, to the officers so elected or appointed and qualified hereunder, all books, papers, records, moneys and documents belonging or appertaining to said offices, on application made by the officers elected or appointed and qualified under this Constitution.

§ 12. Any person may vote at the polls herein authorized for the election of officers and ratification of this Constitution, whom the judges of said election shall be satisfied by oath of the person offering to vote, and such other satisfactory evidence as they may require, is a legally qualified elector under this Constitution: *Provided*, The judges of election shall administer to every person offering to vote at said election the oath prescribed in this Constitution.

§ 13. In the event that either of the three Commissioners appointed by section four hereof shall be a candidate for any office, the other two Commissioners shall canvass the vote so far as it relates to that office, and issue the certificate to the person elected.

§ 14. In case of death or any disability of any member or members of said Board of Commissioners, the remaining Commissioner or Commissioners shall have power to fill such vacancy; and said Commissioner or Commissioners so appointed shall have full power to act as though originally appointed.

§ 15. Any person selling or giving away intoxicating liquor, during the time of the election herein provided for, shall be punished by a fine not less than two hundred dollars for each and every offense, or imprisonment not less than six months, or both.

§ 16. Said Commissioners shall provide suitable poll books for each county, and such instructions as may be necessary to carry into effect the provisions of this schedule. Judges and clerks of election thus appointed shall receive the same per diem as the Boards of Registers provided for in the act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and acts supplementary thereto.

§ 17. The commissioners herein appointed shall receive for their services, for each day actually employed, such compensation per day and allowances, and in such manner, as are now provided for members of this Convention. All expenses incurred under this schedule, not otherwise provided for, shall be paid out of the appropriation for defraying the expenses of this Convention.

Done in Convention, at Little Rock, the eleventh day of February,

in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-second.

In witness whereof we have hereunto subscribed our names.

THOMAS M. BOWEN,

President of the Convention, and Delegate from the County of Crawford.

George S. Scott,	<i>Little River.</i>
Fred R. Poole,	<i>Mississippi and Craighead.</i>
George W. Dale,	<i>Independence.</i>
Peter C. Misner,	<i>Independence.</i>
Clifford Stanley Sims,	<i>Desha.</i>
Daniel Coates,	<i>St. Francis.</i>
J. A. Houghton,	<i>Cross and Poinsett.</i>
Franklin Monroe Rounsaville,	<i>Yell.</i>
Solomon Exon,	<i>Clark.</i>
Miles Ledford Langley,	<i>Clark.</i>
Gayle H. Kyle,	<i>Dallas.</i>
Moses Bell,	<i>Sebastian.</i>
John H. Hutchinson, M. D.,	<i>Arkansas.</i>
John McClure,	<i>Arkansas.</i>
Amos H. Evans,	<i>Monroe.</i>
John N. Sarber,	<i>Johnson.</i>
Jesse Millsaps,	<i>Van Buren.</i>
William A. Wyatt,	<i>Searcy and Fulton.</i>
Anthony Hinkle,	<i>Conway.</i>
O. P. Snyder,	<i>Jefferson.</i>
Samuel W. Mallory,	<i>Jefferson.</i>
James M. Gray,	<i>Jefferson.</i>
Joseph Brooks,	<i>Phillips.</i>
Thomas Smith,	<i>Phillips.</i>
William H. Grey,	<i>Phillips.</i>
James T. White,	<i>Phillips.</i>
Parley A. Williams,	<i>Marion and Newton.</i>
Robert Hatfield,	<i>Franklin.</i>
John W. Harrison,	<i>Hot Springs.</i>
James W. Mason,	<i>Chicot.</i>
George W. McCown,	<i>Columbia.</i>
William G. Hollis,	<i>Calhoun.</i>
James L. Hodges,	<i>Pulaski.</i>
James Hinds,	<i>Pulaski.</i>
Henry Rector,	<i>Pulaski.</i>
Thomas P. Johnston,	<i>Pulaski.</i>
John C. Priddy,	<i>Montgomery.</i>
Asa Hodges,	<i>Crittenden.</i>
F. M. Sams,	<i>Madison.</i>
Charles H. Oliver,	<i>Scott.</i>
Nathan N. Rawlings,	<i>Ouachita.</i>
Jno. R. Montgomery,	<i>Hempstead.</i>
Solomon D. Beldin,	<i>Hempstead.</i>
Richard Samuels,	<i>Hempstead.</i>

R. C. Van Hook,.....	<i>Union.</i>
Ira L. Wilson, ...	<i>Union.</i>
Walter W. Brashear, ...	<i>Pope.</i>
Alfred M. Merrick, ...	<i>Lafayette.</i>
William A. Beasley,.....	<i>Columbia.</i>
James P. Portis, ...	<i>Ouachita.</i>
Monroe Hawkins,.....	<i>Lafayette.</i>
William Murphy,.....	<i>Jefferson.</i>



CALIFORNIA.

The first settlements in California were made under Spanish authority, and the principal direction and control of affairs fell into the hands of Catholic missionaries, who acquired extensive possessions, and brought large numbers of the native Indians under their influence.

By the treaty with Spain, February 22, 1819, the boundary between Mexico and the United States, from the Rocky Mountains to the Pacific, was fixed at 42° north latitude, which line has ever since been the northern boundary of California.

Upon the overthrow of the Spanish power in Mexico in 1822, and the establishment of a Constitution in 1824, New California, as it was then called, not having a sufficient population to entitle it to admission as a State, was made a Territory, represented in Congress by a Delegate, who was allowed to speak upon any measure, but not to vote. A Commandante-General, as formerly, held the nominal place of Governor, but the powers of local government were virtually held by the Fathers of the Missions. Frequent changes of policy, however, with attempts to secularize the property of these establishments for the State and other purposes, caused a rapid decline in the ecclesiastical wealth and power, while a foreign element, having no sympathy with the Mexican government, began to find its way into the country.

The policy of centralization, attempted by the party headed by Santa Anna, in 1835, was not acceptable to California, and a feeling of alienation, and desire for independence gradually extended through the country. Emigrants from the United States began to find their way into the country, in the summer and fall of 1846.

Early in 1846, and before war had been declared between the two countries, the appearance of a small force near Monterey, under Colonel Frémont, upon an exploring expedition, led to jealousies on the part of the Mexican officials, and soon after to hostile movements, which, in conjunction with a naval force, soon reduced the country to the authority of the United States. Colonel Richard Mason was established as the Military, and *ex officio* Civil, Governor of California on the 31st day of May, 1847; the American forces occupied the whole of what was then known as Upper California, and were posted in small detachments, from Sutter's Fort in the north, to San Diego in the south; the Pacific squadron of the navy of the United States lay off the coast and in the harbors, and the country remained quietly in possession, for about a year before the close of the war.

Upon the conclusion of peace, the boundary agreed upon between the two countries left the present State of California entirely within the United States.

By the treaty of Guadalupe Hidalgo, February 2, ratified by the Senate of the United States March 10th, and by the Mexican Congress at Queretaro, May 19-25, 1848, the former line between Upper and Lower California, running directly from the Colorado, opposite the mouth of the Gila, to the Pacific, at a point one marine league south of San Diego, became the national boundary.

A great increase of population began with the American occupation, and the discovery of gold in April, 1848, accelerated this growth with a rapidity scarcely paralleled in history.

The news of the peace reached the country August 7, 1848, and was announced to the people by a proclamation of Governor Mason. After reciting so much of the treaty as applied to California, he stated that the existing laws would remain

in force, and that the civil government would be continued in the hands of the existing officers as heretofore, until further action should be taken by Congress. A military contribution tariff, which had been previously enforced, was suspended, and civilians were appointed to the office of Collector, under the existing revenue laws of the United States.

The new and sudden change occasioned by the influx of miners, the extreme scarcity of coin for paying the custom-house duties upon importations; in short, the absence of a well-organized government, suited to the wants of the times, and founded upon the popular will, became every day more apparent. Yet, as at least four-fifths of the male population of the country were busy in the mines, and as a law for a territorial organization was daily expected, these evils were endured for a time, in the hope of early relief.

The treaty afforded some grounds for the organization of a State government, without first seeking the consent of Congress.

By Article IX of this instrument, it was provided that "Mexicans who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding Article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution."

A large public meeting was held at San José, December 11, 1848, at which committees were appointed and resolutions passed, favoring the immediate formation of a *Provisional Territorial Government*, until a more regular system could be formally established. The proceedings of this meeting were published, and led to others in various places during the months of December and January, 1848-'49. The measure, being of obvious and pressing necessity, met with general approval, and times and places for holding a Convention were mentioned, but not generally agreed upon. At this juncture, Brevet Brigadier-General B. Riley, who had arrived April 13th, and was then acting as Provisional Governor, issued a proclamation, dated June 3, 1849, in which he stated the anomalous and unsatisfactory condition of the country, described the civil organization and system of government as it then existed by law, and appointed the 1st day of August following, for the election of delegates to a Convention, and for filling such vacancies in office as might then exist. The Convention was to meet at Monterey on the 1st of September; the number of Delegates from each district was fixed, their boundaries described, and the places of election appointed. All free citizens of the United States, being males twenty-one years of age and upward, and actually resident, all Mexican residents of California who had chosen to remain, and all citizens of Lower California who had been forced to come into the country on account of having rendered assistance to the Americans in the late war, were allowed to vote. This course was declared to be taken under the advice of the President, the Secretary of State, and the Secretary of War, and was deemed the best that could be taken under all the circumstances of the occasion.

The administration of civil affairs by a military officer had become extremely distasteful to the population, more especially because the laws thus administered were foreign in their origin, and unsuited to the necessities of the times. Still, as a matter of convenience, the advice of the Provisional Governor was generally followed, and a Convention met at the appointed time and place. After mature deliberation they adjourned on the 13th of October, 1849, having prepared a State Constitution, which was submitted to the people at an election held November 13, 1849. This day proved one of the stormiest that had been

known, and, from the want of roads, and difficulty of crossing swollen streams, the vote at the elections was very light. The number that voted for the Constitution was 12,061, and those against it 811. From 1,200 to 1,500 votes were blanks, in consequence of a failure to print "for" or "against" the Constitution upon the ballots. A legislature elected in November re-assembled at San José, then the capital, on the 15th of December. A Governor elected by the people was inaugurated, and, on the 20th of the same month, General Riley, by proclamation, declared the Constitution adopted, and delivered the civil government into the hands of the officers of the newly-formed State, which then went into full operation.

During the year 1848, two efforts were made in Congress to pass a territorial act applying to California, and one for its admission as a State. In 1849 and 1850 efforts were again made to provide a government for California, but the strongest opposition was made against admission under a free-State Constitution, and the partisans of slavery, claiming their privilege under the Missouri Compromise, insisted upon the maintenance of what they held to be their rights in the application of the rule then established. At length an act was approved, on the 9th of September, 1850, admitting the State of California into the Union with its present boundaries, as described in Article XII of the Constitution.

California was admitted upon the express condition, that the people of said State, through their Legislature or otherwise, should never interfere with the primary disposal of the public lands within its limits, and that it should pass no law, and no act, whereby the title of the United States to, and right to dispose of, the same should be impaired or questioned; and that they should never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case were non-resident proprietors, who were citizens of the United States, to be taxed higher than residents; and that all navigable waters within the State were to be the common highways, and forever free, as well to the inhabitants of said State, as to the citizens of the United States, without any tax, impost or duty therefor: *Provided*, That nothing herein contained was to be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the Convention which formed the Constitution of that State.

The question of holding a Convention to revise the Constitution, was submitted to the voters in 1857, 1858 and 1860; and although, at each time, a majority of those who voted were in favor of the measure, still the total vote cast, for and against, was not at any time equal to half the whole number of voters, and therefore the measure failed. In 1857, the vote was 30,226 *for*, and 17,680 *against*; in 1858, it was 45,829 *for*, and 10,160 *against*; and in 1860, it was 59,732 *for*, and 12,481 *against*, a Convention.

The Governor, in his message in 1861, alluding to the little interest felt by the electors in certain features of the administration which required remedy, advised the Legislature to prepare and submit such amendments as appeared to be of most pressing importance, without the formalities of a Convention. These were accordingly made in 1861, approved in 1862, and ratified by the people in the latter year. Still grave doubts were raised, whether the requirements of the Constitution had been so complied with as to make these amendments valid; and the Governor, in his message in 1863, suggested great care in the framing of laws, until the question should have been carefully considered, so as to meet the contingency of either determination. The question, so far as related to the judiciary article, was brought before the Supreme Court of the State, at the January term of 1863, in the matter of Carlos Olivarez, by appeal, and it was decided that the purpose of Article Six, lately adopted, was not to suspend the

administration of any part of the laws of the State, but to provide a judiciary system, which will go into operation when the necessary officers should be elected, pursuant to laws to be hereafter enacted; that it was intended to continue the former judiciary system in force until the new one should be in condition to exercise its functions; that the Courts of Sessions would continue their jurisdiction until the new courts provided in the amendment should be organized; and that the provisions of the old Constitution would cease to have effect from time to time, as the substituted provisions commenced to operate.¹

Several amendments were proposed at the sixteenth session, held in 1866, only one of which was approved at the seventeenth session. It limited appropriations of money to two years, and was ordered to be submitted to the people for their approval at the election in 1871.

¹ California Reports, xxi, p. 415.

CONSTITUTION OF CALIFORNIA.—1849-1862.

SUMMARY.

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[The amendments of 1862 are in brackets.]

PREAMBLE.

We, the people of California, grateful to Almighty God for our freedom, in order to secure its blessings do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent to the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it.

§ 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a trial by jury may be waived by the parties in all civil cases, in the manner to be prescribed by law.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

§ 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require its suspension.

§ 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

§ 7. All persons shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident or the presumption great.

§ 8. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the Legislature), unless on presentment or indictment of a grand jury; and, in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

§ 9. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

§ 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

§ 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

§ 14. Representation shall be apportioned according to population.

§ 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

§ 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

§ 17. Foreigners who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights, in respect to the possession, enjoyment and inheritance of property, as native born citizens.

§ 18. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

§ 19. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

§ 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 21. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the 30th day of May, 1848, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law: *Provided*, that nothing herein contained shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage Indians, or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper.

§ 2. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest on the days of the election, during their attendance at such election, going to and returning therefrom.

§ 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

§ 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

§ 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

§ 6. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of the State of California shall be divided into three separate Departments — the legislative, the executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these Departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated "The Legislature of the State of California," and the enacting clause of every law shall be as follows: "The people of the State of California, represented in Senate and Assembly, do enact as follows."

§ 2. The sessions of the Legislature shall be [biennial,¹] and shall commence on the first Monday of [December] next ensuing the election of its members, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation. [No session shall continue longer than one hundred and twenty days.]

§ 3. The members of the Assembly shall be chosen [biennially] by the qualified voters of their respective districts, on the [first Wednesday in September,²] unless otherwise ordered by the Legislature, and their term of office shall be [two] years.

§ 4. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent.

§ 5. Senators shall be chosen for the term of [four³] years, at the same time and places as members of Assembly; and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State one year, and of the county or district for which he shall be chosen [one year⁴] next before his election.

§ 6. The number of Senators shall not be less than one-third, nor

¹ The sessions were at first annual, and commenced on the first Monday of January. They had no restriction as to continuance.

² Elections were formerly on the Tuesday after the first Monday of November.

³ Formerly two years.

⁴ Formerly six months.

more than one-half of that of the members of Assembly; and at the first session of the Legislature after this Constitution takes effect, the Senators shall be divided by lot, as equally as may be, into two classes; the seats of the Senators of the first class shall be vacated at the expiration of the [second] year, so that one-half shall be chosen [biennially].

§ 7. When the number of Senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

§ 8. Each House shall choose its own officers, and judge of the qualifications, elections and returns of its own members.

§ 9. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

§ 10. Each House shall determine the rules of its own proceedings, and may, with the concurrence of two-thirds of all the members elected, expel a member.

§ 11. Each House shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either House on any question shall, at the desire of any three members present, be entered on the journal.

§ 12. Members of the Legislature shall, in all cases except treason, felony; and breach of the peace, be privileged from arrest, and they shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

§ 13. When vacancies occur in either House, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

§ 14. The doors of each House shall be open, except on such occasions as in the opinion of the House may require secrecy.

§ 15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 16. Any bill may originate in either House of the Legislature, and all bills passed by one House may be amended in the other.

§ 17. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it he shall sign it, but if not, he shall return it, with his objections, to the House in which it originated, which shall enter the same upon the journal, and proceed to reconsider it. If, after such reconsideration, it again pass both Houses by yeas and nays, by a majority of two-

thirds of the members of each House present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall be a law, in like manner as if he had signed it, unless the Legislature, by adjournment, prevent such return.

§ 18. The Assembly shall have the sole power of impeachment; and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

§ 19. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, justices of the Supreme Court, and judges of the District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

§ 20. No Senator or Member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

§ 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State: *Provided*, That officers in the militia, to which there is attached no annual salary, or local officers and postmasters, whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.

§ 22. No person who shall be convicted of the embezzlement or defalcation of the public funds of this State, shall ever be eligible to any office of honor, trust or profit, under this State; and the Legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement or defalcation as a felony.

§ 23. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws at every regular session of the Legislature.

§ 24. The members of the Legislature shall receive for their serv-

ices a compensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either House shall have been elected.

§ 25. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title; and no law shall be revised or amended by reference to its title; but in such case, the act revised, or section amended, shall be re-enacted and published at length.

§ 26. No divorce shall be granted by the Legislature.

§ 27. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

§ 28. The enumeration of the inhabitants of this State shall be taken under the direction of the Legislature, in the year one thousand eight hundred and fifty-two, and one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States, in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both Houses of the Legislature.

§ 29. The number of Senators and Members of Assembly shall, at the first session of the Legislature holden after the enumerations herein provided for are made, be fixed by the Legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of Members of Assembly shall not be less than twenty-four, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and after that period, at such ratio that the whole number of Members of Assembly shall never be less than thirty, nor more than eighty.

§ 30. When a Congressional, Senatorial or Assembly District shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county shall be divided, in forming a Congressional, Senatorial, or Assembly District [so as to attach one portion of a county to another county; but the Legislature may divide each county into as many Congressional, Senatorial, or Assembly Districts, as such county may, by apportionment, be entitled to].

§ 31. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

§ 32. Dues from corporations shall be secured by such individual

liability of the corporators, and other means, as may be prescribed by law.

§ 33. The term "corporations" as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

§ 34. The Legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed under general laws for the deposit of gold and silver; but no such association shall make, issue, or put in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

§ 35. The Legislature of this State shall prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

§ 36. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for his proportion of all its debts and liabilities.

§ 37. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

§ 38. In all elections by the Legislature, the members thereof shall vote *viva voce*, and the votes shall be entered on the journal.

§ 39. [In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to article IV by the Legislature of eighteen hundred and sixty-one, no officer shall be suspended or superseded thereby, until the election and qualification of the several officers provided for in said amendments.]

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of California.

§ 2. The Governor shall be elected by the qualified electors, at the time and places of voting for Members of Assembly, and shall hold

his office [four] years from [and after the first Monday subsequent to his election], and until his successor shall be qualified.

§ 3. No person shall be eligible to the office of Governor (except at the first election), who has not been a citizen of the United States and a resident of this State two years next preceding the election, and attained the age of twenty-five years at the time of said election.

§ 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in presence of both Houses of the Legislature. The person having the highest number of votes shall be Governor; but in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both Houses, choose one of said persons, so having an equal and the highest number of votes, for Governor.

§ 5. The Governor shall be commander-in-chief of the militia, the army and navy of this State.

§ 6. He shall transact all executive business with the officers of Government, civil and military, and may require information in writing from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

§ 7. He shall see that the laws are faithfully executed.

§ 8. When any office shall from any cause become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

§ 9. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

§ 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

§ 11. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided it be not beyond the next time fixed for the meeting of the next Legislature.

§ 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor, except as herein-after expressly provided.

§ 13. The Governor shall have the power to grant reprieves and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and

limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, at its date, and the date of the pardon or reprieve.

§ 14. There shall be a Seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

§ 15. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

§ 16. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor; and his term of office, and his qualifications of eligibility, shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled, or the disability shall cease.

§ 17. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue commander-in-chief of the military force of the State.

§ 18. A Secretary of State, a Controller, a Treasurer, an Attorney-General, and [a] Surveyor-General, shall be [elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor, and whose term of office shall be the same as the Governor.¹]

§ 19. The Secretary of State shall keep a fair record of the official acts of the Legislative and Executive Departments of the Government, and shall, when required, lay the same, and all matters relative thereto,

¹ The Secretary was formerly appointed by the Governor and Senate.

before either branch of the Legislature, and shall perform such other duties as shall be assigned him by law; [and in order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article five by the Legislature of eighteen hundred and sixty-one, no officer shall be superseded or suspended thereby, until the election and qualification of the several officers provided for in said amendments.]

§ 20. The Controller, Treasurer, Attorney-General and Surveyor-General, shall be chosen by joint vote of the two Houses of the Legislature, at their first session under this Constitution, and thereafter shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor.

§ 21. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General shall each, at stated times during their continuance in office, receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected; but neither of these officers shall receive for his own use any fees for the performance of his official duties.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts [in Probate Courts], and in Justices of the Peace [and in such Recorder's and other inferior courts, as the Legislature may establish in any incorporated city or town].

§ 2. The Supreme Court shall consist of a Chief Justice and [four] Associate Justices. [The presence of three Justices shall be necessary for the transaction of business, excepting such business as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce judgment.]

§ 3. The Justices of the Supreme Court shall be elected by the qualified electors of the State [at special elections to be provided by law, at which elections no officer other than judicial shall be elected, except a Superintendent of Public Instruction. The first election for Justices of the Supreme Court shall be held in the year eighteen hundred and sixty-three. The Justices shall hold their offices for the term of ten years from the first day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify themselves by lot, that one Justice shall go out of office every two years. The Justice having the shortest term to serve shall be the Chief Justice].

[§ 4. The Supreme Court shall have appellate jurisdiction in all cases in equity; also in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in all cases arising in the Probate Courts; and, also, in all criminal cases amounting to felony on questions of law alone. The court shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any District Court, or any county court in the State, or before any Judge of said courts.

§ 5. The State shall be divided, by the Legislature of eighteen hundred and sixty-three, into fourteen Judicial Districts, subject to such alteration, from time to time, by a two-thirds vote of all the members elected to both Houses, as the public good may require; in each of which there shall be a District Court, and for each of which a District Judge shall be elected by the qualified electors of the district, at the special judicial elections to be held as provided for the election of Justices of the Supreme Court by section three of this article. The District Judges shall hold their offices for the term of six years from the first day of January next after their election. The Legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for upward of thirty consecutive days shall be deemed to have forfeited his office.

§ 6. The District Courts shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; and also, in all criminal cases not otherwise provided for. The District Courts and their judges shall have power to issue writs of habeas corpus on petition by, or on behalf of, any person held in actual custody in their respective districts.

§ 7. There shall be in each of the organized counties of the State a County Court, for each of which a County Judge shall be elected by the qualified electors of the county, at the special judicial elections to be held as provided for the election of Justices of the Supreme Court by section three of this article. The County Judges shall hold their

offices for the term of four years from the first day of January next after their election. Said courts shall also have power to issue naturalization papers. In the city and county of San Francisco, the Legislature may separate the offices of Probate Judge from that of County Judge, and may provide for the election of Probate Judge, who shall hold his office for the term of four years.

§ 8. The County Courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and also such criminal jurisdiction as the Legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in courts held by Justices of the Peace and Recorders, and in such inferior courts as may be established in pursuance of section one of this article, in their respective counties. The County Judges shall also hold in their several counties Probate Courts, and perform such duties as Probate Judges as may be prescribed by law. The County Courts and their judges shall also have power to issue writs of habeas corpus, on petition or on behalf of any person in actual custody in their respective counties.

§ 9. The Legislature shall determine the number of Justices of the Peace to be elected in each city and township of the State, and fix by law their powers, duties and responsibilities: *Provided*, Such powers shall not in any case trench upon the jurisdiction of the several courts of record. The Supreme Court, the District Courts, County Courts, the Probate Courts, and such other courts as the Legislature shall prescribe, shall be courts of record.

§ 10. The Legislature shall fix by law the jurisdiction of any Recorder's, or other inferior municipal, court which may be established in pursuance of section one of this article, and shall fix by law the powers, duties and responsibilities of the judges thereof.

§ 11. The Legislature shall provide for the election of a clerk of the Supreme Court, County Clerks, District Attorneys, Sheriffs, and other necessary officers, and shall fix by law their duties and compensation. County Clerks shall be ex officio clerks of the courts of record in and for their respective counties. The Legislature may also provide for the appointment by the several District Courts of one or more Commissioners in the several counties of their respective districts, with authority to perform chamber business of the judges of the District Courts and County Courts, and also to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

§ 12. The times and places of holding the terms of the several courts of record shall be provided for by law.

§ 13. No judicial officer, except Justices of the Peace, Recorders and Commissioners, shall receive for his own use any fees or perquisites of office.

§ 14. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient: and all opinions shall be free for publication by any person.

§ 15. The Justices of the Supreme Court, District Judges and County Judges, shall severally, at stated times during their continuance in office, receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected: *Provided*, That County Judges shall be paid out of the county treasury of their respective counties.

§ 16. The Justices of the Supreme Court, and the District Judges and the County Judges, shall be ineligible to any other office than a judicial office during the term for which they shall have been elected.

§ 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

§ 18. The style of all process shall be: "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

§ 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article six by the Legislature of eighteen hundred and sixty-one, no officer shall be superseded thereby, nor shall the organization of the several courts be changed thereby, until the election and qualification of the several officers provided for in said amendments.]

ARTICLE VII.

MILITIA.

SECTION 1. The Legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

§ 2. Officers of the militia shall be elected or appointed in such a manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor.

§ 3. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE VIII.

STATE DEBT.

The Legislature shall not in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate, with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people.

ARTICLE IX.

EDUCATION.

SECTION 1. [A Superintendent of Public Instruction shall, at the special election for judicial officers, to be held in the year eighteen hundred and sixty-three, and every four years thereafter, at such special elections, be elected by the qualified voters of the State, and shall enter upon the duties of his office on the first day of December next after his election.]

§ 2. The Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841; and all estate of deceased persons who may have died without leaving a will, or heir, and also such per cent as may be granted by Congress on the sale of lands in this State, shall be and remain a

perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

§ 3. The Legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each district at least three months in every year, and any district neglecting to keep and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

§ 4. The Legislature shall take measures for the protection, improvement or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States, or any person or persons, to the State for the use of the university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may demand for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the Legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

ARTICLE X.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

§ 2. And if, at any time, two-thirds of the Senate and Assembly shall think it necessary to revise and change this entire Constitution,

they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against the Convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a Convention, the Legislature shall, at its next session, provide by law for calling a Convention, to be holden within six months after the passage of such law; and such Convention shall consist of a number of members not less than that of both branches of the Legislature. [The Constitution that may have been agreed upon and adopted by such Convention shall be submitted to the people, at a special election, to be provided for by law, for their ratification or rejection; each voter shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written, or printed, the words "For the new Constitution," or "Against the new Constitution." The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer and Secretary of State, and compare the votes so certified to him. If, by such examination, it be ascertained that the whole number of votes cast at such election be in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California.¹]

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. The first session of the Legislature shall be held at the Pueblo de San Jose, which place shall be the permanent seat of government until removed by law; provided, however, that two-thirds of all the members elected to each House of the Legislature shall concur in the passage of such law.

§ 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it; or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

§ 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will sup-

¹ Amended November 4, 1856.

port the Constitution of the United States, and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability.”

And no other oath, declaration or test shall be required as a qualification for any office of public trust.

§ 4. The Legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the State.

§ 5. The Legislature shall have power to provide for the election of a Board of Supervisors in each county; and these Supervisors shall jointly and individually perform such duties as may be prescribed by law.

§ 6. All officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct.

§ 7. When the duration of any office is not provided for by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office not fixed by this Constitution ever exceed four years.

§ 8. The fiscal year shall commence on the first day of July.

§ 9. Each county, town, city, and incorporated village, shall make provision for the support of its own officers, subject to such restrictions and regulations as the Legislature may prescribe.

§ 10. The credit of the State shall not in any manner be given or loaned to, or in aid of, any individual, association, or corporation; nor shall the State, directly or indirectly, become a stockholder in any association or corporation.

§ 11. Suits may be brought against the State in such manner, and in such courts, as shall be directed by law.

§ 12. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

§ 13. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; but Assessors and Collectors of town, county, and State taxes shall be elected by the qualified electors of the district, county or town in which the property taxed for State, county, or town purposes, is situated.

§ 14. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining

the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

§ 15. The Legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

§ 16. No perpetuities shall be allowed, except for eleemosynary purposes.

§ 17. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe, to procure his election or appointment.

§ 18. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

§ 19. Absence from the State on business of the State, or of the United States, shall not affect the question of residence of any person.

§ 20. A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this Constitution.

§ 21. All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish.

ARTICLE XII.

BOUNDARY.

The boundary of the State of California shall be as follows:

Commencing at the point of intersection of forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line in a southeasterly direction to the river Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the treaty of May 30th, 1848; thence running west and along said boundary line to the Pacific ocean, and extending therein three English miles; thence running in a northwesterly direction, and following the direction of the Pacific coast, to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also all the islands, harbors and bays, along and adjacent to the Pacific coast.

SCHEDULE.

SECTION 1. All rights, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith, until altered or repealed by the Legislature, shall continue as if the same had not been adopted.

§ 2. The Legislature shall provide for the removal of all causes which may be pending when this Constitution goes into effect, to courts created by the same.

§ 3. In order that no inconvenience may result to the public service from the taking effect of this Constitution, no office shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this Constitution.

§ 4. The provisions of this Constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned shall not be held to apply to officers chosen by the people at the first election, or by the Legislature at its first session.

§ 5. Every citizen of California declared a legal voter by this Constitution, and every citizen of the United States a resident of this State on the day of election, shall be entitled to vote at the first general election under this Constitution, and on the question of the adoption thereof.

§ 6. This Constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the thirteenth day of November next. The Executive of the existing government of California is hereby requested to issue a proclamation to the people, directing the Prefects of the several districts, or in case of vacancy, the Sub-Prefects, or Senior Judge of First Instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner which was prescribed for the election of delegates to this Convention, except that the Prefect, Sub-Prefect, or Senior Judge of First Instance ordering such election in each district, shall have power to designate any additional number of places for opening the polls, and that in every place of holding the election a regular poll list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written, or printed, "For the Constitution," or "Against the Con-

stitution," or some such words as will distinctly convey the intention of the voter. These judges and inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the judges and inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the Prefect, Sub-Prefect, or Senior Judge of the First Instance, as the case may be, of their respective districts; and said Prefect, Sub-Prefect, or Senior Judge of First Instance, shall transmit one of the same, by the most safe and rapid conveyance, to the Secretary of State. Upon the receipt of said returns, or on the tenth day of December next, if the returns be not sooner received, it shall be the duty of a Board of Canvassers, to consist of the Secretary of State, one of the judges of the Superior Court, the Prefect, Judge of First Instance, and an Alcalde of the district of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the Executive will also, immediately after ascertaining that the Constitution has been ratified by the people, make proclamation of the fact; and thenceforth this Constitution shall be ordained and established as the Constitution of California.

§ 7. If this Constitution shall be ratified by the people of California, the Executive of the existing government is hereby requested immediately after the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the President of the United States, in order that he may lay it before the Congress of the United States.

§ 8. At the general election aforesaid, viz.: the thirteenth day of November next, there shall be elected a Governor, Lieutenant-Governor, members of the Legislature, and also two members of Congress.

§ 9. If this Constitution shall be ratified by the people of California, the Legislature shall assemble at the seat of government on the fifteenth day of December next; and in order to complete the organization of that body, the Senate shall elect a President *pro tempore* until the Lieutenant-Governor shall be installed into office.

§ 10. On the organization of the Legislature it shall be the duty of the Secretary of State to lay before each House a copy of the abstract made by the Board of Canvassers, and, if called for, the original returns of election, in order that each House may judge of the correctness of the report of said Board of Canvassers.

§ 11. The Legislature, at its first session, shall elect such officers as may be ordered by this Constitution to be elected by that body,

and, within four days after its organization, proceed to elect two Senators to the Congress of the United States. But no law passed by the Legislature shall take effect until signed by the Governor after his installation into office.

§ 12. The Senators and Representatives to the Congress of the United States, elected by the Legislature and people of California as herein directed, shall be furnished with certified copies of this Constitution, when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the people of California, the admission of the State of California into the American Union.

§ 13. All officers of this State, other than members of the Legislature, shall be installed into office on the fifteenth day of December next, or as soon thereafter as practicable.

§ 14. Until the Legislature shall divide the State into counties, and Senatorial and Assembly districts, as directed in this Constitution, the following shall be the apportionment of the two Houses of the Legislature, viz.: the districts of San Diego and Los Angeles shall jointly elect two Senators; the districts of Santa Barbara and San Luis Obispo shall jointly elect one Senator; the district of Monterey, one Senator; the district of San José, one Senator; the district of San Francisco, two Senators; the district of Sonoma, one Senator; the district of Sacramento, four Senators; and the district of San Joaquin, four Senators. And the district of San Diego shall elect one member of Assembly; the district of Los Angeles, two members of Assembly; the district of Santa Barbara, two members of Assembly; the district of San Luis Obispo, one member of Assembly; the district of Monterey, two members of Assembly; the district of San José, three members of Assembly; the district of San Francisco, five members of Assembly; the district of Sonoma, two members of Assembly; the district of Sacramento, nine members of Assembly; and the district of San Joaquin, nine members of Assembly.

§ 15. Until the Legislature shall otherwise direct, in accordance with the provisions of this Constitution, the salary of the Governor shall be ten thousand dollars per annum; and the salary of the Lieutenant-Governor shall be double the pay of a State Senator; and the pay of members of the Legislature shall be sixteen dollars per diem while in attendance, and sixteen dollars for every twenty miles travel, by the usual route from their residences, to the place of holding the session of the Legislature, and in returning therefrom. And the Legislature shall fix the salaries of all officers, other than those elected by the people at the first election.

§ 16. The limitation of the powers of the Legislature, contained in Article eight of this Constitution, shall not extend to the first Legislature elected under the same, which is hereby authorized to negotiate for such amount as may be necessary to pay the expenses of the State government.

ROBERT SEMPLE,

*President of the Convention, and Delegate
from Benicia..*

WM. G. MARCY, *Secretary.*

Joseph Aram, ...	<i>San José.</i>
Charles T. Botts, ...	<i>Monterey.</i>
Elam Brown, ...	<i>San José.</i>
Jose Antonio Carrillo, ...	<i>Los Angeles.</i>
Jose M. Covarrubias, ...	<i>San Luis Obispo.</i>
Elisha D. Crosby, ...	<i>Sacramento.</i>
Pablo de la Guerra, ...	<i>Santa Barbara.</i>
Lewis T. Dent, ...	<i>Monterey.</i>
Manuel Dominguez, ...	<i>Los Angeles.</i>
Kimball H. Dimmick, ...	<i>San José.</i>
A. J. Ellis, ...	<i>San Francisco.</i>
Stephen C. Foster, ...	<i>Los Angeles.</i>
Edward Gilbert, ...	<i>San Francisco.</i>
William M. Gwin, ...	<i>San Francisco.</i>
Henry W. Halleck, ...	<i>Monterey.</i>
Julian Hanks, ...	<i>San José.</i>
L. W. Hastings, ...	<i>Sacramento.</i>
Henry Hill, ...	<i>San Diego.</i>
Joseph Hobson, ...	<i>San Francisco.</i>
J. McH. Hollingsworth, ...	<i>San Joaquin.</i>
J. D. Hoppe, ...	<i>San José.</i>
J. M. Jones, ...	<i>San Joaquin.</i>
Thomas O. Larkin, ...	<i>Monterey.</i>
Francis J. Lippitt, ...	<i>San Francisco.</i>
Benjamin S. Lippincott, ...	<i>San Joaquin.</i>
M. M. McCarver, ...	<i>Sacramento.</i>
John McDougal, ...	<i>Sacramento.</i>
B. F. Moore, ...	<i>San Joaquin.</i>
Myron Norton, ...	<i>San Francisco.</i>
Pacificus Ord, ...	<i>Monterey.</i>
Miguel Pedrarena, ...	<i>San Diego.</i>
Antonio M. Pico, ...	<i>San José.</i>
Rodman M. Price, ...	<i>San Francisco.</i>
Hugo Reid, ...	<i>Los Angeles.</i>
Jacinto Rodriguez, ...	<i>Santa Barbara.</i>
Pedro Sansevani, ...	<i>San José.</i>
William E. Shannon, ...	<i>Sacramento.</i>
Winfield S. Sherwood, ...	<i>Sacramento.</i>
Jacob R. Snyder, ...	<i>Sacramento.</i>
Abel Stearns, ...	<i>Los Angeles.</i>

William M. Stewart, ...	<i>San Francisco.</i>
John A. Sutter, ...	<i>Sacramento.</i>
Henry A. Tefft, ...	<i>San Luis Obispo.</i>
Mariano G. Vallejo, ...	<i>Sonoma.</i>
Thomas Lloyd Vermeule, ...	<i>San Joaquin.</i>
Joel P. Walker, ...	<i>Sonoma.</i>
O M. Wozencraft, ...	<i>San Joaquin.</i>



CONNECTICUT.

In 1630 Robert, Earl of Warwick, President of the Plymouth Company, obtained a patent from the Council of that company for a tract of land, being "all that part of New England in America, which lies and extends itself from a river there called Narragansett river, the space of forty leagues upon a straight line near the sea-shore toward the southwest, west, and by south or west as the coast lyeth toward Virginia, * * * * and in all the breadth aforesaid throughout the main lands there, from the Western Ocean to the South Seas."

On the 19th of March, 1631, the Earl of Warwick conveyed his grant to the Hon. William, Viscount Say and Seal; Robert, Lord Brook; Robert, Lord Rich; Charles Fiennes, Esq.; Sir Nathaniel Rich, Sir Richard Saltonstall, and others.

The first attempt at occupation was made in 1633, and formal possession was taken in 1635. The Dutch of New Netherland claimed a portion of these lands, and a long controversy followed. Even to the present day, the exact boundary between Connecticut and New York is not entirely settled.

In 1635, settlement was begun on the Connecticut river, at Wethersfield and Windsor, and soon after in other places, by colonists who at first acknowledged the authority of Massachusetts, but, finding themselves beyond the limits of that colony, the settlers on the Connecticut met at Hartford, January 14, 1639, and, after mature deliberation, adopted a form of government for themselves. It provided that there should be two General Assemblies, annually, and that there should be annually elected by the freemen, in April, a Governor and six Assistants, and that as many other officers should be chosen as might be found requisite. The General Court had sole power to make or repeal laws, grant levies, admit freemen, dispose of vacant lands, call other courts, or magistrate, or any other person whatsoever, into question for any misdemeanor; remove or deal otherwise with public officers for just cause, and deal in any other matter that concerned the good of the Commonwealth, except election of magistrates. The Governor was to preside at the General Court, and had a casting vote, in case of a tie, and no Court could be adjourned without a vote of the major part thereof.

Elections were held under this authority, and the first General Court assembled at Hartford, in April, 1639, and proceeded, as they had leisure, to enact a system of laws, and a Bill of Rights. It was ordained that no man's life should be taken away, no man's honor or good name be stained, no man's person be arrested, restrained, banished, dismembered, nor any wise punished; that no man should be deprived of his wife or children; no man's goods or estate should be taken away from him nor any wise endamaged, under color of law, or countenance of authority, unless it should be by the virtue of some express law of the Colony warranting the same, established by the General Court, and sufficiently published; or in case of the defect of such law, in any particular case, by some clear and plain rule of the Word of God, in which the whole Court should concur. It was also ordained that all persons in the Colony, whether inhabitants or not, should enjoy the same law and justice, without partiality or delay. In short, the supreme power — legislative, executive and judicial — was vested in the General Court, and the system presented the essential features of an independent Commonwealth or State.

Church membership was not made an indispensable qualification of a free-man, as in some other Colonies. The rights of the patentees were purchased in 1644, by the General Court of Connecticut, for £7,000.

A colony was planted at New Haven in 1638, by emigrants from England, who held no title from the patentees, but purchased their lands from the natives. After living more than a year without any code of government, they convened, June 4th, 1639, and in solemn form proceeded to lay the foundations of civil government, based upon the declaration that the Scriptures hold forth a perfect rule for the direction and government of all men in all duties which they are to perform to God and man, as well in families and the Commonwealth as in matters of the church. Under this view of the origin of civil government, they decreed to receive none as freemen but such as had been admitted into the church; and, that civil officers might be chosen and a government organized, it was necessary that a church should be formed. They proceeded to elect twelve men for this duty, of whom seven were chosen to draw up the form of a solemn charge or oath, and, after declaring all former trusts for the management of the public affairs of the plantation void, they proceeded to admit such as desired and offered themselves as members. An election of officers followed, when Mr. Davenport, their minister, gave to Governor Eaton the following charge in open court, from Deut. i, 16, 17: "And I charged your Judges at that time, saying, Hear the causes between your brethren, and judge righteously between every man and his brother, and the stranger that is with him. Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto Me, and I will hear it."

Sixty-three members subscribed to this covenant on the first day, and about fifty others were soon after added. Under this fundamental Constitution, the General Court consisted of the Governor, Deputy, magistrates, and two Deputies from each plantation, and was declared to be "the Supreme Power, under God, of the independent dominions," and had authority "to declare, publish, and establish the laws of God, the Supreme Legislator, and to make and repeal orders for smaller matters not particularly determined in Scripture, according to the general rules of righteousness: to order all affairs of war and peace, and all matters relative to the defending or fortifying the country; to receive and determine all appeals, civil or criminal, from any inferior courts, in which they are to proceed according to Scripture light, and laws, and orders agreeing therewith." No juries were employed, either in civil or criminal cases, all matters of fact being determined by the court; but otherwise the mode of government very nearly resembled that of Massachusetts. No Deputy-Governor was at first chosen, and no laws were enacted, but in the form of resolutions, until, by the addition of new towns, the General Court received a new form, and a system of civil polity was gradually developed. The criminal code under this government was derived from the Mosaic law, and was enforced with rigor.

The two Colonies of Connecticut and New Haven continued separate until united under a Charter granted by Charles II, April 23, 1662, although the latter did not yield assent to the union until December 13, 1664, the final resolves for this purpose being passed by the General Assembly of Connecticut, on the 20th of April, 1665. This Charter incorporated the inhabitants by the name of "the Governor and Company of the Colony of Connecticut in New England in America," and vested the supreme power in a General Court of Assembly, composed of an upper and a lower House, the former consisting of the Governor, Deputy-Governor and twelve Assistants, all of whom were elected annually. It met twice annually, in May and October, and two Representatives were elected

from each city or town for each session. Special sessions might be called by the Governor, or, in his absence, by the Deputy-Governor. A Treasurer and Secretary were annually elected by the freemen. The General Assembly had authority to appoint and organize judicatories, admit freemen, elect officers, establish laws and ordinances not contrary to the laws of England, punish offenses, grant pardons, and exercise military authority in case of necessity.

No Bill of Rights was included in the Charter, but the inhabitants were guaranteed all the rights, liberties and immunities of natural-born subjects of the realm. At an early period under the Charter an act was, however, passed, which was subsequently repeated in the act continuing the Charter as the fundamental law of the State, and which enumerated many of the natural and inherent rights of the citizen. The Charter was silent as to religious rights or privileges; but laws were passed, requiring all persons to attend public worship, and for the support of ministers of religion by towns. The choice of ministers was at first left to the householders of the town, but in 1708 this right was restricted to church members. In 1709, the "Saybrook Platform" was approved and continued down to modern times, to regulate in discipline and doctrine the ecclesiastical affairs of the State. The prevalent form of religious worship in former times was the Congregational. Churches could only be organized by the consent of the General Assembly, and the approbation of the neighboring churches; and no ministry or church organization was entertained or authorized separate from, and in opposition to, that publicly observed and dispensed by the approbation and consent aforesaid. In the earlier periods, persecution and intolerance prevailed, nor did it abate until, in pursuance of the statutes of 1 William and Mary, dissenters were allowed the liberty of conscience without molestation.

Every person coming into the colony, or born there, was required to take an oath of allegiance before being admitted as a freeman, nor could he enjoy this privilege without a property qualification of 40 shillings freehold, per annum, or £40 personal estate.

The trial by jury was secured in civil and criminal cases, and if the court were dissatisfied with the verdict, they might send back the jury to consider the same, but not more than twice. The Criminal Code was in general like that of Massachusetts. The Judges and Justices were appointed annually by the General Court, and were generally re-appointed during capacity or good behavior. Sheriffs were appointed by the Governor and Council without limitation of time; general and field officers of the militia were appointed by the General Assembly, and commissioned by the Governor; and officers of lower grade were elected by a vote of the company, and householders living within their districts. Public schools were supported by towns, and a maritime code was adopted, regulating the rights, duties and authority of shipowners, seamen and others concerned in commerce.

In 1685, a writ of *quo warranto* was issued by King James, against the colony, for the purpose of repealing its Charter, but no judgment appears to have been rendered.

In 1687, Sir Edmund Andros, Governor of New England, declared the Charter void, but on the 9th of May, 1689, after the revolution in England had placed William and Mary upon the throne, the people resumed the exercise of its powers.

The provisions of this Charter were found so well suited to their condition, that, by an act passed in 1776, entitled "An act containing an abstract and declaration of the rights and privileges of the people of this State, and securing the same," it was continued in force as the fundamental law of the State. The act was as follows:

"The people of this State being, by the providence of God, free and independent, have the sole and exclusive right of governing themselves as a free, sovereign and independent State; and having from their ancestors derived a free and excellent constitution of government, whereby the Legislature depends on the free and annual election of the people, they have the best security for the preservation of their civil and religious rights and liberties. And forasmuch as the free fruition of such liberties and privileges as humanity, civility and Christianity call for, as is due to every man in his place and proportion, without impeachment and infringement, hath ever been, and will be, the tranquillity and stability of churches and commonwealths, and the denial thereof, the disturbance, if not the ruin, of both,

"Be it enacted and declared by the Governor, Council and Representatives in General Court assembled, and by the authority of the same, that the ancient form of civil government, contained in the charter from Charles the Second, king of England, and adopted by the people of this State, shall be and remain the civil Constitution of this State, under the sole authority of the people thereof, independent of any king or prince whatever. And that this Republic is, and shall forever be and remain, a free, sovereign and independent State, by the name of THE STATE OF CONNECTICUT.

"And be it further enacted and declared by the authority aforesaid, that no man's life shall be taken away; no man's honor or good name shall be stained; no man's person shall be arrested, restrained, banished, dismembered nor any ways punished; no man shall be deprived of his wife or children; no man's goods or estate shall be taken away from him, nor any ways endamaged under the color of law or countenance of authority, unless clearly warranted by the laws of this State.

"That all the free inhabitants of this or any other of the United States of America, and foreigners in amity with this State, shall enjoy the same justice and law within this State, which is general for the State, in all cases, proper for the cognizance of the civil authority and courts of judicature within the same, and that without partiality or delay.

"And that no man's person shall be restrained or imprisoned by any authority whatsoever, before the law hath sentenced him thereto, if he can and will give sufficient security, bail or mainprize for his appearance and good behavior in the mean time, unless it be for capital crimes, contempt in open court, or in such cases wherein some express law doth allow of, or order the same."

From a general attachment to the Colonial Charter as the organic law of the State, there gradually grew up a party intent upon a change. The courts of law were subjects of animadversion, and the method of choosing Representatives in Congress by general ticket, which had been adopted by the dominant party, was denounced as inadequate to protect the rights of the minority. On the 29th of August, 1804, the Republican party, as then organized, met at New Haven, and passed resolutions favoring a change. - Every Justice of the Peace of the minority who attended this Convention was tried and impeached, which tended to strengthen those whom it was intended to crush. In August, 1806, another Convention met at Litchfield, and afterwards others. The Federalists became divided, and the Toleration Party gained strength on every side, until in 1817 it came into power. Their complete triumph in 1818 was followed by an act passed July 4, 1818, authorizing a Convention. It met at Hartford in August, and, on the 15th day of September of that year, completed a State Constitution, which has since, with some amendments, remained the organic law of the State. The vote upon its adoption in the Convention was 134 to 61, and by the people at the election held October 5, 1818, it was 13,918 *for* to 12,361 *against*.

The elections, which had been semi-annual, were by the Constitution made annual. The Governor was allowed the right of returning bills with his objections, which might be passed a second time by a majority of each House, notwithstanding. The Legislature retained most of its old prerogatives of appointments to office, and the former religious establishment was abolished.

The most noticeable change was, however, that which extended the right of voting to all tax payers. The former Board of Assistants, increased in numbers, became the Senate, and the general model of the Constitution was for the most part the old Charter.

CONSTITUTION OF CONNECTICUT.—1818.

SUMMARY.

ARTICLES.

- I. Declaration of Rights.
- II. Of the Distribution of Powers.
- III. Of the Legislative Department.
- IV. Of the Executive Department.
- V. Of the Judiciary Department.
- VI. Of the Qualifications of Electors.
- VII. Of Religion.
- VIII. Of Education.
- IX. Of Impeachment.
- X. General Provisions.
- XI. Of Amendments of the Constitution.

PREAMBLE.

ARTICLE I.—*Declaration of Rights.*

SECTIONS.

1. All men equal in rights—no man or set of men entitled to exclusive public emoluments.
2. Origin of political power—purpose of government—right to alter form of government.
3. Religious freedom—not to excuse acts of licentiousness, &c.
4. No preference to be given to particular sects.
5. Every citizen free to speak, write and publish his sentiments—being responsible for the same.
6. Freedom of speech and of the press not to be abridged.
7. In prosecution for libel, the truth may be given in evidence—jury to determine the law and the facts.
8. Security against unlawful seizures and searches.
9. Rights of persons accused—witness against one's self—right of speedy and impartial trial—trial on indictment of grand jury—exceptions.
10. No person to be unlawfully arrested, detained or punished.
11. Private property not to be taken for public use without compensation.
12. Courts to be open—right of justice.
13. Excessive bail—excessive fines.
14. Right of bail—privilege of habeas corpus.
15. Attainder for treason or felony forbidden.
16. Right of assembly—of petition.
17. Right to bear arms in defense of self or the State.
18. Subordination of military to civil power.
19. Quartering of soldiers.
20. Hereditary emoluments, privileges or honors forbidden.
21. Right of trial by jury.

ARTICLE II.—*Distribution of Powers.*

1. Legislative, executive and judicial departments.

ARTICLE III.—*Legislative Department.*

1. Legislative power, how vested—style of laws.
2. Sessions, when and where holden—special sessions—meeting elsewhere in certain cases.
3. House, how composed—town representation.

SECTIONS.

4. Senate, how composed.
5. Elections, when held—returns, how made.
6. State canvass—case of equal vote—result, how announced.
7. Officers of each House—quorum—power to compel attendance.
8. Each House to determine its own rules—expulsion of members.
9. Journal—yeas and nays, when entered.
10. Privilege of members.
11. Sessions to be public.

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2. Mode of election—returns how made.
3. Election of Lieutenant-Governor.
4. Pay of Governor—of Lieutenant-Governor—of members.
5. Captain-General of militia.
6. Governor may require information in writing.
7. May adjourn General Assembly in certain cases.
8. To give information of state of government.
9. To see that the laws are executed.
10. Pardon power.
11. Commissions, how signed and sealed.
12. Veto power of Governor.
13. Lieutenant-Governor to preside in Senate.
14. When to serve as Governor.
15. President of Senate *pro tempore*—when to serve as Governor.
16. Secretary to convene Senate in certain case.
17. Treasurer, when and how chosen—duties.
18. Secretary, when and how chosen—duties—seal.
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20. Sheriffs—term—removal—bonds—vacancies.
21. Statement of receipts and payments.

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2. Justices of the Peace.
3. Appointment of Judges and Justices—removal—limit of age.

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2. Qualifications of freemen.
3. Forfeiture of privilege of electors.
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5. Selectmen and town clerk to judge of qualifications.
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7. Votes to be by ballot.
8. Privilege of electors.
9. Elections, when held.

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2. Persons separating themselves to leave notice.

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1. Charter of Yale college confirmed.
2. School fund inviolate—how used.

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2. How tried—oaths—conviction.
3. Officers liable to impeachment—judgment limited—treason defined—how proved—forfeitures.

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2. Selectmen—local officers.
3. Continuance of rights—of officers—of laws.
4. Offices incompatible with that of members of General Assembly.

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Amendments, how made and ratified.

AMENDMENTS.

ARTICLES.

- I. Senate limited in number—elected by districts.
- II. Senatorial districts—when changed.
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- IV. Election of Lieutenant-Governor—Treasurer—Secretary.
- V. Comptroller of Accounts to be elected.
- VI. Mode of electing State officers—may be prescribed by laws—ballots may be written or printed.
- VII. Election of Sheriff—sureties.
- VIII. Qualifications for admission as electors.
- IX. Election of Judges of Probate.
- X. Election of Justices of the Peace.
- XI. Literary qualification of electors.
- XII. Term of judges of Supreme Court of Errors and Superior Court—removal limit of age.
- XIII. Voting of persons absent in military service.

PREAMBLE.

The people of Connecticut, acknowledging with gratitude the good providence of God, in having permitted them to enjoy a free government, do, in order more effectually to define, secure and perpetuate the liberties, rights and privileges which they have derived from their ancestors, hereby, after a careful consideration and revision, ordain and establish the following Constitution and form of civil government.

ARTICLE I.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established,

WE DECLARE,

SECTION 1. That all men, when they form a social compact, are equal in rights; and that no man, or sect of men, are entitled to exclusive public emoluments or privileges from the community.

§ 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that they have, at all times, an undeniable and indefeasible right to alter their form of government in such a manner as they may think expedient.

§ 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State; provided that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State.

§ 4. No preference shall be given by law to any Christian sect or mode of worship.

§ 5. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

§ 6. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

§ 7. In all prosecutions or indictments for libel the truth may be given in evidence; and the jury shall have the right to determine the law and the facts, under the direction of the court.

§ 8. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

§ 9. In all criminal prosecutions the accused shall have a right to be heard by himself and by counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his favor; and, in all prosecutions by indictment or information, a speedy public trial by an impartial jury. He shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, but by due course of law. And no person shall be holden to answer for any crime, the punishment of which may be death or imprisonment for life, unless on a presentment or an indictment of a grand jury, except in the land or naval forces, or in the militia, when in actual service, in time of war or public danger.

§ 10. No person shall be arrested, detained or punished, except in cases clearly warranted by law.

§ 11. The property of no person shall be taken for public use, without just compensation therefor.

§ 12. All courts shall be open, and every person, for an injury done him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

§ 13. Excessive bail shall not be required, nor excessive fines imposed.

§ 14. All prisoners shall, before conviction, be bailable, by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great; and privileges of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it; nor in any case but by the Legislature.

§ 15. No person shall be attainted of treason or felony but by the Legislature.

§ 16. The citizens have a right, in a peaceable manner, to assemble

for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address or remonstrance.

§ 17. Every citizen has a right to bear arms in defense of himself and the State.

§ 18. The military shall, in all cases and at all times, be in strict subordination to the civil power.

§ 19. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

§ 20. No hereditary emoluments, privileges or honors shall ever be granted or conferred in this State.

§ 21. The right of trial by jury shall remain inviolate.

ARTICLE II.

OF THE DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct Departments, and each of them confided to a separate magistracy, to wit: those which are Legislative, to one; those which are Executive, to another; and those which are Judicial to another.

ARTICLE III.

OF THE LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power of this State shall be vested in two distinct Houses or branches: the one to be styled THE SENATE, the other THE HOUSE OF REPRESENTATIVES, and both together THE GENERAL ASSEMBLY. The style of their laws shall be: *Be it enacted by the Senate and House of Representatives, in General Assembly convened.*

§ 2. There shall be one stated session of the General Assembly, to be holden in each year, alternately at Hartford and New Haven, on the first Wednesday of May, and at such other times as the General Assembly shall judge necessary; the first session to be holden at Hartford; but the person administering the office of Governor may, on special emergencies, convene the General Assembly at either of said places, at any other time. And in case of danger from the prevalence of contagious diseases in either of said places, or other circumstances, the person administering the office of Governor may, by proclamation, convene said Assembly at any other place in this State.

§ 3. The House of Representatives shall consist of electors residing

in towns from which they are elected. The number of Representatives from each town shall be the same as at present practiced and allowed. In case a new town shall hereafter be incorporated, such new town shall be entitled to one Representative only; and if such new town shall be made from one or more towns, the town or towns from which the same shall be made shall be entitled to the same number of Representatives as at present allowed, unless the number shall be reduced by the consent of such town or towns.

§ 4. The Senate shall consist of twelve members, to be chosen annually by the electors.¹

§ 5. At the meeting of the electors, held in the several towns in this State, in April, annually, after the election of Representative, the electors present shall be called upon to bring their *written*² ballots for Senators. The presiding officer shall receive the votes of the electors, and count and declare them in open meeting. The presiding officer shall also make duplicate lists of the persons voted for, and of the number of votes for each, which shall be certified by the presiding officer; one of which lists shall be delivered to the Town Clerk, and the other, within ten days after said meeting, shall be delivered, under seal, either to the Secretary or to the Sheriff of the county in which said town is situated; which list shall be directed to the Secretary, with a superscription expressing the purport of the contents thereof. And each Sheriff who shall receive such votes shall, within fifteen days after said meeting, deliver, or cause them to be delivered, to the Secretary.

§ 6. The Treasurer, Secretary and Comptroller, for the time being, shall canvass the votes publicly. The twelve³ persons having the greatest number of votes for Senators shall be declared to be elected. But in cases where no choice is made by the electors, in consequence of an equality of votes, the House of Representatives shall designate, by ballot, which of the candidates having such equal number of votes shall be declared to be elected. The return of votes, and the result of the canvass, shall be submitted to the House of Representatives, and also to the Senate, on the first day of the session of the General Assembly; and each House shall be the final judge of the election, returns and qualifications of its own members.

§ 7. The House of Representatives, when assembled, shall choose a Speaker, Clerk and other officers. The Senate shall choose its Clerk and other officers, except the President. A majority of each House

¹ Altered by amendment of 1838, which allowed not less than 18 nor more than 24. There are now 21 Senatorial Districts.

² Altered by amendment of 1836, and 1864.

³ Altered by amendment of 1836.

shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

§ 8. Each House shall determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same cause ; and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

§ 9. Each House shall keep a journal of its proceedings, and publish the same, when required by one-fifth of its members, except such parts as, in the judgment of a majority, require secrecy. The yeas and nays of the members of either House shall, at the desire of one-fifth of those present, be entered on the journals.

§ 10. The Senators and Representatives shall, in all cases of civil process, be privileged from arrest during the session of the General Assembly, and for four days before the commencement and after the termination of any session thereof. And for any speech or debate in either House they shall not be questioned in any other place.

§ 11. The debates of each House shall be public, except on such occasions as, in the opinion of the House, may require secrecy.

ARTICLE IV.

OF THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the State shall be vested in a Governor, who shall be chosen by the electors of the State, and shall hold his office for one year from the first Wednesday of May next succeeding his election, and until his successor be duly qualified. No person who is not an elector of this State, and who has not arrived at the age of thirty years, shall be eligible.

§ 2. At the meetings of the electors in the respective towns, in the month of April in each year, immediately after the election of Senators, the presiding officers shall call upon the electors to bring in their ballots for him whom they would elect to be Governor, with his name fairly written.¹ When such ballots shall have been received and counted, in the presence of the electors, duplicate lists of the persons voted for, and of the number of votes given for each, shall be made and certified by the presiding officer ; one of which lists shall be deposited in the office of the Town Clerk within three days, and the other, within ten days after said election, shall be transmitted to

the Secretary, or to the Sheriff of the county in which such election shall have been held. The Sheriff receiving said votes shall deliver, or cause them to be delivered, to the Secretary, within fifteen days next after said election. The votes so returned shall be counted by the Treasurer, Secretary and Comptroller, within the month of April. A fair list of the persons, and number of votes given for each, together with the returns of the presiding officers, shall be, by the Treasurer, Secretary and Comptroller, made and laid before the General Assembly, then next to be holden, on the first day of the session thereof; and said Assembly shall, after examination of the same, declare the person whom they shall find to be legally chosen, and give him notice accordingly. If no person shall have a majority of the whole number of said votes, or if two or more shall have an equal and the greatest number of said votes, then said Assembly, on the second day of their session, by joint ballot of both Houses, shall proceed, without debate, to choose a Governor from a list of the names of the two persons having the greatest number of votes, or of the names of the persons having an equal and highest number of votes so returned as aforesaid. The General Assembly shall by law prescribe the manner in which all questions concerning the election of a Governor or Lieutenant-Governor shall be determined.

§ 3. At the annual meetings of the electors, immediately after the election of Governor, there shall also be chosen, in the same manner as is hereinbefore provided for the election of Governor, a Lieutenant-Governor,¹ who shall continue in office for the same time, and possess the same qualifications.

§ 4. The compensations of the Governor, Lieutenant-Governor, Senators and Representatives shall be established by law, and shall not be varied so as to take effect until after an election which shall next succeed the passage of the law establishing said compensations.

§ 5. The Governor shall be Captain-General of the militia of the State, except when called into the service of the United States.

§ 6. He may require information in writing from the officers in the Executive department, on any subject relating to the duties of their respective offices.

§ 7. The Governor, in case of a disagreement between the two Houses of the General Assembly, respecting the time of adjournment, may adjourn them to such time as he shall think proper, not beyond the day of the next stated session.

§ 8. He shall, from time to time, give the General Assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

¹ Altered by amendment of 1836.

§ 9. He shall take care that the laws be faithfully executed.

§ 10. The Governor shall have power to grant reprieves after conviction, in all cases, except those of impeachment, until the end of the next session of the General Assembly, and no longer.

§ 11. All commissions shall be in the name and by authority of the State of Connecticut, shall be sealed with the State seal, signed by the Governor, and attested by the Secretary.

§ 12. Every bill, which shall have passed both Houses of the General Assembly, shall be presented to the Governor. If he approves, he shall sign and transmit it to the Secretary; but if not, he shall return it to the House in which it originated, with his objections, which shall be entered on the journals of the House, who shall proceed to reconsider the bill. If, after such reconsideration, that House shall again pass it, it shall be sent, with the objections, to the other House, which shall also reconsider it. If approved, it shall become a law. But in such cases the votes of both Houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each House respectively. If the bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the General Assembly, by their adjournment, prevent its return, in which case it shall not be a law.

§ 13. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, and have, when in Committee of the whole, a right to debate, and when the Senate is equally divided, to give the casting vote.

§ 14. In case of the death, resignation, refusal to serve, or removal from office of the Governor, or of his impeachment or absence from the State, the Lieutenant-Governor shall exercise the powers and authority appertaining to the office of Governor until another be chosen at the next periodical election for Governor, and be duly qualified; or until the Governor impeached or absent shall be acquitted or return.

§ 15. When the government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their members as President *pro tempore*. And if, during the vacancy of the office of Governor, the Lieutenant-Governor shall die, resign, refuse to serve, or be removed from office, or if he shall be impeached, or absent from the State, the President of the Senate *pro tempore* shall, in like manner, administer the government, until he be superseded by a Governor or Lieutenant-Governor.

§ 16. If the Lieutenant-Governor shall be required to administer the government, and shall, while in such administration, die or resign, during the recess of the General Assembly, it shall be the duty of the Secretary, for the time being, to convene the Senate for the purpose of choosing a President *pro tempore*.

§ 17. A Treasurer shall annually be chosen by the electors, at their meeting in April; and the votes shall be returned, counted, canvassed and declared in the same manner as is provided for the election of Governor and Lieutenant-Governor;¹ But the votes for Treasurer shall be canvassed by the Secretary and Comptroller only. He shall receive all moneys belonging to the State, and disburse the same only as he may be directed by law. He shall pay no warrant or order for the disbursement of public money until the same has been registered in the office of the Comptroller.

§ 18. A Secretary shall be chosen next after the Treasurer, and in the same manner;¹ and the votes for Secretary shall be returned to, and counted, canvassed and declared by, the Treasurer and Comptroller. He shall have the safe keeping and custody of the public records and documents, and particularly the acts, resolutions and orders of the General Assembly, and record the same; and perform all such duties as shall be prescribed by law. He shall be the keeper of the Seal of the State, which shall not be altered.

§ 19. A Comptroller of the public accounts shall be annually appointed by the General Assembly. He shall adjust and settle all public accounts and demands, except grants and orders of the General Assembly. He shall prescribe the mode of keeping and rendering all public accounts. He shall, *ex officio*, be one of the Auditors of the accounts of the Treasurer. The General Assembly may assign to him other duties in relation to his office, and to that of the Treasurer, and shall prescribe the manner in which his duties shall be performed.

§ 20. A Sheriff shall be appointed in each county by the General Assembly,² who shall hold his office for three years, removable by said Assembly, and shall become bound, with sufficient sureties, to the Treasurer of the State, for the faithful discharge of the duties of his office, in such manner as shall be prescribed by law. In case the Sheriff of any county shall die or resign, the Governor may fill the vacancy occasioned thereby, until the same shall be filled by the General Assembly.

§ 21. A statement of all receipts, payments, funds and debts of the State shall be published from time to time, in such manner and at such periods as shall be prescribed by law.

¹ Altered by amendment of 1836.

² Altered by amendment of 1838.

ARTICLE V.

OF THE JUDICIARY DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court of Errors, a Superior Court, and such inferior courts as the General Assembly shall, from time to time, ordain and establish, the powers and jurisdiction of which courts shall be defined by law.

§ 2. There shall be appointed, in each county, a sufficient number of Justices of the Peace, with such jurisdiction in civil and criminal cases as the General Assembly may prescribe.

§ 3. The Judges of the Supreme Court of Errors, of the Superior and inferior courts, and all Justices of the Peace, shall be appointed by the General Assembly, in such manner as shall by law be prescribed.¹ The Judges of the Supreme Court and of the Superior Court shall hold their offices during good behavior,² but may be removed by impeachment; and the Governor shall also remove them, on the address of two-thirds of the members of each House of the General Assembly; all other Judges and Justices of the Peace shall be appointed annually. No Judge or Justice of the Peace shall be capable of holding his office after he shall arrive at the age of seventy years.

ARTICLE VI.

OF THE QUALIFICATIONS OF ELECTORS.

SECTION 1. All persons who have been or shall hereafter, previous to the ratification of this Constitution, be admitted freemen, according to the existing laws of this State, shall be electors.

§ 2. Every white male citizen of the United States who shall have gained a settlement in this State, attained the age of twenty-one years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector at least six months preceding, and have a freehold estate of the yearly value of seven dollars in this State; or, having been enrolled in the militia, shall have performed military duty therein for the term of one year next preceding the time he shall offer himself for admission, or, being liable thereto, shall have been by authority of law excused therefrom; or shall have paid a State tax within a year next preceding the time he shall present himself for such admission,³ and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

§ 3. The privileges of an elector shall be forfeited by a conviction

¹ Altered by amendments of 1850.

² Altered by amendment of 1856.

³ Altered by amendments of 1845, and 1855.

of bribery, forgery, perjury, duelling, fraudulent bankruptcy, theft, or other offense for which an infamous punishment is inflicted.

§ 4. Every elector shall be eligible to any office in this State, except in cases provided for in this Constitution.

§ 5. The Selectmen and Town Clerk of the several towns shall decide on the qualifications of electors, at such times and in such manner as may be prescribed by law.

§ 6. Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult and other improper conduct.

§ 7. In all elections of officers of the State or members of the General Assembly, the votes of the electors shall be by ballot.

§ 8. At all elections of officers of the State or members of the General Assembly, the electors shall be privileged from arrest during their attendance upon, and going to, and returning from the same, on any civil process.

§ 9. The meetings of the electors for the election of the several State officers, by law annually to be elected, and members of the General Assembly of this State, shall be holden on the first Monday of April in each year.

ARTICLE VII.

OF RELIGION.

SECTION 1. It being the duty of all men to worship the Supreme Being, the Great Creator and Preserver of the Universe, and their right to render that worship in the mode most consistent with the dictates of their conscience, no person shall by law be compelled to join or support, or be classed with or associated to, any congregation, church, or religious association. But every person now belonging to such congregation, church, or religious association, shall remain a member thereof until he shall have separated himself therefrom in the manner hereinafter provided. And each and every society or denomination of Christians in this State shall have and enjoy the same and equal powers, rights and privileges, and shall have power and authority to support and maintain the ministers or teachers of their respective denominations, and to build and repair houses for public worship by a tax on the members of any such society only, to be laid by a major vote of the legal voters assembled at any society meeting, warned and held according to law, or in any other manner.

§ 2. If any person shall choose to separate himself from the society or denomination of Christians to which he may belong, and shall leave

a written notice thereof with the clerk of such society, he shall thereupon be no longer liable for any future expenses which may be incurred by said society.

ARTICLE VIII.

OF EDUCATION.

SECTION 1. The charter of Yale College, as modified by agreement with the corporation thereof, in pursuance of an act of the General Assembly, passed in May, 1792, is hereby confirmed.

§ 2. The fund called the School Fund shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public or common schools throughout the State, and for the equal benefit of all the people thereof. The value and amount of said fund shall, as soon as practicable, be ascertained in such manner as the General Assembly may prescribe, published and recorded in the Comptroller's office; and no law shall ever be made authorizing said fund to be diverted to any other use than the encouragement and support of public or common schools, among the several school societies, as justice and equity shall require.

ARTICLE IX.

OF IMPEACHMENTS.

SECTION 1. The House of Representatives shall have the sole power of impeaching.

§ 2. All impeachments shall be tried by the Senate. When sitting for that purpose they shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present. When the Governor is impeached the Chief Justice shall preside.

§ 3. The Governor and all other executive and judicial officers shall be liable to impeachment; but judgments in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust or profit under this State. The party convicted shall nevertheless be liable and subject to indictment, trial and punishment according to law.

§ 4. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason, or attainder, shall work corruption of blood, or forfeiture.

ARTICLE X.

GENERAL PROVISIONS.

SECTION 1. Members of the General Assembly, and all officers, executive and judicial, shall, before they enter on the duties of their respective offices, take the following oath or affirmation, to wit:

“ You do solemnly swear (or affirm, as the case may be) that you will support the Constitution of the United States, and the Constitution of the State of Connecticut, so long as you continue a citizen thereof; and that you will faithfully discharge, according to law, the duties of the office of _____ to the best of your abilities. So help you God.”

§ 2. Each town shall annually elect Selectmen, and such officers of local police as the laws may prescribe.

§ 3. The rights and duties of all corporations shall remain as if this Constitution had not been adopted, with the exception of such regulations and restrictions as are contained in this Constitution. All judicial and civil officers now in office, who have been appointed by the General Assembly, and commissioned according to law, and all such officers as shall be appointed by the said Assembly, and commissioned as aforesaid, before the first Wednesday of May next, shall continue to hold their offices until the first day of June next, unless they shall, before that time, resign, or be removed from office according to law. The Treasurer and Secretary shall continue in office until a Treasurer and Secretary shall be appointed under this Constitution. All military officers shall continue to hold and exercise their respective offices until they shall resign, or be removed according to law. All laws not contrary to or inconsistent with the provisions of this Constitution shall remain in force until they shall expire by their own limitation, or shall be altered or repealed by the General Assembly, in pursuance of this Constitution. The validity of all bonds, debts, contracts, as well of individuals as of bodies corporate, or the State; of all suits, actions, or rights of action, both in law and equity, shall continue as if no change had taken place. The Governor, Lieutenant-Governor and General Assembly which is to be formed in October next shall have and possess all the powers and authorities not repugnant to or inconsistent with this Constitution, which they now have and possess, until the first Wednesday of May next.

§ 4. No Judge of the Superior Court, and of the Supreme Court of Errors; no member of Congress; no person holding any office under the authority of the United States; no person holding the office of

Treasurer, Secretary or Comptroller; no sheriff or sheriff's deputy shall be a member of the General Assembly.

ARTICLE XI.

OF AMENDMENTS OF THE CONSTITUTION.

Whenever a majority of the House of Representatives shall deem it necessary to alter or amend this Constitution, they may propose such alteration and amendments; which proposed amendments shall be continued to the next General Assembly, and be published with the laws which may have been passed at the same session; and if two-thirds of each House, at the next session of said Assembly, shall approve the amendment proposed, by yeas and nays, said amendment shall, by the Secretary, be transmitted to the town clerk in each town in the State, whose duty it shall be to present the same to the inhabitants thereof for their consideration, at a town meeting legally warned and held for that purpose; and if it shall appear, in manner to be provided by law, that a majority of the electors present at such meetings shall have approved such amendments, the same shall be valid, to all intents and purposes, as a part of this Constitution.

Done in Convention, on the fifteenth day of September, in the year of our Lord one thousand eight hundred and eighteen, and of the Independence of the United States the forty-third.

By order of the Convention,

OLIVER WOLCOTT, *President.*

JAMES LANMAN, }
ROBERT FAIRCHILD, } *Clerks.*

[DELEGATES TO THE CONVENTION.—Those who voted *aye*, at the final adoption, are marked thus (*). Those who voted *nay* are marked thus (†).]

HARTFORD	Sylvester Wells,* Nathaniel Terry.*
Berlin	Samuel Hart,* Samuel Norton.*
Bristol.....	Bryan Hooker.†
Burlington	Bliss Hart.†
Canton	Solomon Everest.†
East Hartford.....	Richard Pitkin,* Samuel Pitkin.†
East Windsor.....	Charles Jencks,* Abner Reed.*
Enfield.....	Henry Terry,* William Dixon.*
Farmington	Timothy Pitkin,† John Treadwell.†
Glastonbury	Samuel Wells,* David E. Hubbard.
Granby	Sadoce Wilcox,* Reuben Barker.*
Hartland	Aaron Church,† John Treat.†
Marlborough	Elisha Buell.†
Simsbury	Elisha Phelps,* Jonathan Pettibone, Jr.*
Southington	Roger Whittlesey,† Chester Grannis.†

<i>Suffield</i>	Christopher Jones,* Asahel Morse.*
<i>Wethersfield</i>	Stephen M. Mitchell,* Levi Lusk;†
<i>Windsor</i>	Eliakim Marshall,* Josiah Phelps.*
NEW HAVEN	William Bristol,* Nathan Smith.*
<i>Branford</i>	Eli Fowler,† Jonathan Rose.†
<i>Cheshire</i>	Andrew Hull,* Charles Shelton.*
<i>Darby</i>	Joseph Riggs.†
<i>East Haven</i>	Bela Farnham.†
<i>Guilford</i>	Nathaniel Griffing, William Todd.*
<i>Hamden</i>	Russell Pierpont.*
<i>Meriden</i>	Patrick Clark.*
<i>Middlebury</i>	Aaron Benedict.†
<i>Milford</i>	Benjamin Bull,† Samuel B. Gunn.†
<i>North Haven</i>	Daniel Pierpont.*
<i>Oxford</i>	David Tomlinson.*
<i>Southbury</i>	Shadrach Osborn.*
<i>Wallingford</i>	John Andrews,* William Marks.*
<i>Waterbury</i>	Timon Miles, Andrew Adams.*
<i>Wolcott</i>	Ambrose Ives.*
<i>Woodbridge</i>	Justus Thomas,† Chauncey Tolles.†
NEW LONDON	Christopher Manwaring,* Amasa Leonard.*
<i>Norwich</i>	John Turner,* James Lanman.*
<i>Bozrah</i>	Roswell Fox.*
<i>Colchester</i>	David Deming,† John Isham, Jr.†
<i>Franklin</i>	Joshua Hyde.†
<i>Griswold</i>	Elisha J. Abel.†
<i>Groton</i>	John Daboll,* William Williams.*
<i>Lisbon</i>	Daniel Braman.*
<i>Lyme</i>	Moses Warren, Ebenezer Brockway.*
<i>Montville</i>	Oliver Comstock.*
<i>North Stonington</i>	Chester Smith,* William Randall, Jr.*
<i>Preston</i>	Nathaniel Kimball,* Denison Palmer.*
<i>Stonington</i>	William Randall,* Amos Gallop.*
<i>Waterford</i>	Charles Avery.*
FAIRFIELD	David Hill,* Gideon Tomlinson.*
<i>Danbury</i>	Friend Starr,* William Cook.*
<i>Brookfield</i>	Noah A. Lacy.*
<i>Greenwich</i>	Clark Sanford,† Enos Lockwood.*
<i>Huntington</i>	Timothy J. Welles,* William Shelton.*
<i>New Canaan</i>	Nathan Seeley.*
<i>New Fairfield</i>	Samuel T. Barnum.*
<i>Newton</i>	Gideon Botsford,* James B. Fairman.*
<i>Norwalk</i>	Moses Gregory,* John Eversby.*
<i>Redding</i>	Samuel Whiting,* Lemuel Sanford.*
<i>Ridgefield</i>	Joshua King,* Abner Gilbert.*
<i>Sherman</i>	Jedediah Graves.*
<i>Stamford</i>	Samuel Stevens,† John Weed, Jr.†
<i>Stratford</i>	Pierpont Edwards,* Robert Fairchild.†
<i>Trumbull</i>	Lewis Burton.*
<i>Weston</i>	Abel Gregory,* Isaac Bennett.*
<i>Wilton</i>	Erastus Sturges.*

<i>WINDHAM</i>	Peter Webb,* Zaccheus Waldo.*
<i>Ashford</i>	Josiah Byles,* William Perkins.†
<i>Brooklyn</i>	Roger W. Williams.*
<i>Canterbury</i>	Luther Paine,† Daniel Frost.†
<i>Columbia</i>	Silas Fuller.*
<i>Hampton</i>	Ebenezer Griffin.*
<i>Killingly</i>	Luther Warren,* Ezra Hutchins.*
<i>Lebanon</i>	Thomas Babcock,* Stephen D. Tilden.*
<i>Mansfield</i>	Edward Freeman,* Artemas Gurley.*
<i>Plainfield</i>	Elias Woodward,* John Dunlap.*
<i>Pomfret</i>	Darius Matthewson,* Lemuel Ingalls.†
<i>Sterling</i>	Dixon Hall.*
<i>Thompson</i>	George Larned,* Jonathan Nichols, Jr.*
<i>Voluntown</i>	Daniel Kligwin.*
<i>Woodstock</i>	John McLellan,* Elias Childs, 2d.†
<i>LITCHFIELD</i>	Oliver Wolcott,* John Welch.*
<i>Barkhamsted</i>	Samuel Hayden,† Oliver Mills.†
<i>Bethlem</i>	Nehemiah Lambert.†
<i>Canaan</i>	William M. Burrall,* William Douglass.*
<i>Colebrook</i>	Arah Phelps,* George Pinney.*
<i>Cornwall</i>	Philo Swift,† Oliver Burnham.*
<i>Goshen</i>	Adino Hale,* Theodore North.*
<i>Harwington</i>	James Brace,† Uriah Hopkins.
<i>Kent</i>	Lewis St. John.*
<i>New Hartford</i>	Aaron Austin,† Jonathan Marsh.†
<i>New Milford</i>	Orange Merwin,* Jehiel Williams.
<i>Norfolk</i>	Augustus Pettibone,* Joseph Battell.*
<i>Plymouth</i>	Calvin Butler.*
<i>Roxbury</i>	John Trowbridge.*
<i>Salisbury</i>	Daniel Johnson,* Samuel Church.*
<i>Sharon</i>	Cyrus Swan,† Samuel E. Everett.†
<i>Torrington</i>	Abel Hinsdale,† William Battell.†
<i>Warren</i>	John Tallmadge.†
<i>Washington</i>	Hermanus Marshall,* Ensign Bushnell.*
<i>Watertown</i>	Amos Baldwin.†
<i>Winchester</i>	Levi Platt,† Joseph Miller.*
<i>Woodbury</i>	Nathaniel Perry,† Daniel Bacon.†
<i>MIDDLETOWN</i>	Alexander Wolcott,† Joshua Stow.*
<i>Haddam</i>	Ezra Brainerd,* John Huntington.*
<i>Chatham</i>	Enoch Sage,* Benjamin Hurd.
<i>Durham</i>	Thomas Lyman,* Lemuel Guernsey.*
<i>East Haddam</i>	Solomon Blakeslee, William Hungerford.*
<i>Killingworth</i>	George Elliot,† Dan Lane.†
<i>Saybrook</i>	Clark Nott,† Elisha Sill.†
<i>HOLLAND</i>	Ashbell Chapman,* Eliphalet Young.*
<i>Bolton</i>	Saul Alvord, Jr.*
<i>Coventry</i>	Jesse Root,† Elisha Edgerton.†
<i>Ellington</i>	Asa Willey.†
<i>Hebron</i>	Daniel Burrows,* John S. Peters.*
<i>Somers</i>	Benjamin Phelps,† Giles Pease.†

<i>Stafford</i>	Ephraim Hyde,* Nathan Johnson.*
<i>Union</i>	Ingoldsby W. Crawford,* Robert Paul.*
<i>Vernon</i>	Phineas Talcott,†
<i>Willington</i>	Jonathan Sibley, Jr.,* Spafford Brigham.*

AMENDMENTS.

ARTICLE I. — ADOPTED NOVEMBER, 1828.

From and after the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty, the Senate of this State shall consist of not less than eighteen nor more than twenty-four members, and be chosen by districts.

ARTICLE II. — ADOPTED NOVEMBER, 1828.

The General Assembly which shall be holden on the first Wednesday of May, in the year one thousand eight hundred and twenty-nine, shall divide the State into districts for the choice of Senators, and shall determine what number shall be elected in each, which districts shall not be less than eight nor more than twenty-four in number, and shall always be composed of contiguous territory, and in forming them no town shall be divided; nor shall the whole or part of one county be joined to the whole or part of another county to form a district, regard being had to the population in said apportionment, and in forming said districts in such manner that no county shall have less than two Senators. The districts, when established, shall continue the same until the session of the General Assembly next after the completion of the next census of the United States; which said Assembly shall have power to alter the same, if found necessary to preserve a proper equality between said districts in respect to the number of inhabitants therein, according to the principles above recited; after which said districts shall not be altered, nor the number of Senators altered, except at any session of the General Assembly next after the completion of a census of the United States, and then only according to the principles above described.

ARTICLE III. — ADOPTED NOVEMBER, 1828.

At the meeting of the electors on the first Monday of April, in the year one thousand eight hundred and thirty, and annually thereafter, immediately after the choice of Representatives, the electors qualified by law to vote in the choice of such Representatives shall be called upon, by the presiding officer in such meeting, in the several towns

within their districts, respectively, to bring in their ballots for such person or number of persons to be Senator or Senators for such districts in the next General Assembly, as shall by law be allowed to such districts respectively: ¹ which person or persons, at the time of holding such meetings, shall belong to and reside in the respective districts in which they shall be so balloted for as aforesaid. And each elector present at such meeting, qualified as aforesaid, may thereupon bring in his ballot or suffrage for such person or persons as he shall choose, to be Senators for such districts, not exceeding the number by law allowed to the same, with the name or names of such person or persons fairly *written*¹ on one piece of paper. And the votes so given in shall be received, counted, canvassed and declared, in the same manner now provided by the Constitution for the choice of Senators. The person or persons (not exceeding the number by law allowed to the districts in which such votes shall be given in) having the highest number of votes shall be declared to be duly elected for such districts. But in the event of an equality of votes between two or more of the persons so voted for, the House of Representatives shall, in the manner provided for by the Constitution, designate which of such persons shall be declared to be duly elected.

ARTICLE IV. — ADOPTED NOVEMBER, 1832.

There shall annually be chosen and appointed a Lieutenant-Governor, a Treasurer and Secretary, in the same manner as is provided in the second section of the fourth article of the Constitution of this State for the choice and appointment of a Governor.

ARTICLE V. — ADOPTED NOVEMBER, 1836.

A Comptroller of Public Accounts shall be annually chosen by the electors, in their meeting in April, and in the same manner as the Treasurer and Secretary are chosen, and the votes for Comptroller shall be returned to, and counted, canvassed and declared by, the Treasurer and Secretary.

ARTICLE VI. — ADOPTED NOVEMBER, 1836.

The electors in the respective towns, on the first Monday of April in each year, may vote for Governor, Lieutenant-Governor, Treasurer, Secretary, Senators and Representatives in the General Assembly,

¹ Altered by amendment of 1836.

successively, or for any number of said officers at the same time. And the General Assembly shall have power to enact laws regulating and prescribing the order and manner of voting for said officers, and also providing for the election of Representatives, at some time subsequent to the first Monday of April, in all cases when it shall so happen that the electors in any town shall fail on that day to elect the Representative or Representatives to which such town shall be by law entitled: *Provided*, That in all elections of officers of the State, or members of the General Assembly, the votes of the electors shall be by ballot either written or printed.

ARTICLE VII.—ADOPTED OCTOBER, 1838.

A Sheriff shall be appointed in each county by the electors therein, in such manner as shall be prescribed by law, who shall hold his office for three years, removable by the General Assembly, and shall become bound, with sufficient sureties to the Treasurer of the State, for the faithful discharge of the duties of his office.

ARTICLE VIII.—ADOPTED OCTOBER, 1845.

Every white male citizen of the United States who shall have attained the age of twenty-one years, who shall have resided in this State for a term of one year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector at least six months next preceding the time he may so offer himself,¹ and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

ARTICLE IX.—ADOPTED OCTOBER, 1850.

The Judges of Probate shall be appointed by the electors residing in the several Probate districts, and qualified to vote for Representatives therein, in such manner as shall be prescribed by law.

ARTICLE X.—ADOPTED OCTOBER, 1850.

The Justices of the Peace for the several towns in this State shall be appointed by the electors in such towns; and the time and the manner of their election, the number for each town, and the period for which they shall hold their offices, shall be prescribed by law.

¹ Altered, by Amendment of 1855.

ARTICLE XI.—ADOPTED OCTOBER, 1855.

Every person shall be able to read any article of the Constitution, or any section of the statutes of this State, before being admitted as an elector.

ARTICLE XII.—ADOPTED OCTOBER, 1856.

The Judges of the Supreme Court of Errors and of the Superior Court, appointed in the year 1855, and thereafter, shall hold their offices for the term of eight years, but may be removed by impeachment, and the Governor shall also remove them on the address of two-thirds of each House of the General Assembly. No Judge of the Supreme Court of Errors, or of the Superior Court, shall be capable of holding office, after he shall have arrived at the age of seventy years.

ARTICLE XIII.—ADOPTED AUGUST, 1864.

Every elector of this State who shall be in the military service of the United States, either as a drafted person or volunteer, during the present rebellion, shall, when absent from this State, because of such service, have the same right to vote in any election of State officers, Representatives in Congress, and Electors of President and Vice-President of the United States, as he would have if present at the time appointed for such election, in the town in which he resided at the time of his enlistment into such service. This provision shall in no case extend to persons in the regular army of the United States, and shall cease, and become inoperative and void, upon the termination of the present war. The General Assembly shall prescribe by law, in what manner, and in what time, the votes of electors absent from this State, in the military service of the United States, shall be received, counted, returned and canvassed.



DELAWARE.

This State was first settled by a colony of Swedes, at Wilmington, in 1627. The Dutch, however, claimed the country by virtue of earlier discovery, and in 1651 they built Fort Cassimir, on the site of New Castle. It was taken by the Swedes under the guise of a friendly visit; but in 1655 a Dutch expedition from New Netherland, completely reduced the Swedes to their authority. They allowed a part to remain, upon their taking an oath of allegiance. Some went to Maryland and Virginia, and others were sent to Europe. In 1664 it fell into the hands of the English, with the conquest of the Dutch, and for some years it continued to be ruled as a part of New York, under the government established by the Duke of York.

William Penn, deeming the possession of these settlements essential to the prosperity of his colony in Pennsylvania, obtained from the Duke of York, by two deeds of feoffment, dated August 24, 1682, the title of these lands. One of these deeds conveyed the country within a twelve-mile circle around New Castle, and the other the country below, as far south as Cape Henlopen. These tracts were called the "Territories," or the "Three Lower Counties on Delaware:" and by an act of union, executed at Upland, now Chester, December 7, 1682, they were united to Pennsylvania, and one General Assembly was established for the two colonies.

At an early period, Lord Baltimore asserted claims to the country, which were not sustained, although some years in controversy.

In 1703, a separation from Pennsylvania occurred, with the consent of the proprietary, and they were allowed a distinct and separate Assembly, although they were still under the same proprietor, and the same person acted as Governor over both, down to the period of the Revolution.

The limits of Delaware are declared by statute to be "the divisional lines between it and Maryland, ran and marked by Commissioners, and approved on the 11th of January, 1769; the circular line between it and Pennsylvania, surveyed and marked in 1701, under a warrant issued by William Penn, in pursuance of the feoffment from the Duke of York, dated August 24, 1682, as the same has been held, occupied and recognized by the said States respectively, ever since that time; low-water mark on the eastern side of the river Delaware, within the twelve-mile circle from New Castle; and the middle of the bay below said circle."

The people of Delaware, acting with the colonies generally in their resistance against the oppressive measures of Great Britain, were represented in the Continental Congress from the first. On the 14th of June, 1776, the recommendation of Congress for the formation of governments in the several colonies by the people, suited to the wants of the occasion, which had been passed by that body on the 15th of May, was approved by the Assembly; and on the 27th of July they passed resolutions recommending an election on the 19th of August, of ten Delegates from each county, to meet in a Convention, that should assemble at New Castle on the 27th of that month, for the express purpose of preparing a State Constitution.

This Convention met at the time and place appointed, and on the 21st of September, 1776, completed the first Constitution of the State of Delaware.

This Constitution vested the legislative power in a General Assembly, composed of a House of Assembly of twenty-one members (seven from each county),

elected annually, and a Legislative Council of nine members, elected for three years—one annually from each county.

The executive power was lodged with a President, elected by the General Assembly for three years, and a Privy Council of four members, chosen for two years—one annually by each House. All laws in force May 15, 1776, were continued until they expired or were repealed, if not contrary to the resolutions of Congress, or of the late House of Assembly of the State. The common law of England, and so much of the statute law as had been heretofore adopted in practice, was continued in force, excepting such parts as were repugnant to the Constitution and the Declaration of Rights agreed upon by the Convention. The slave trade was prohibited, and no slave could be brought into the State for sale. Amendments to the Constitution might be made by the consent of five-sevenths of the Assembly and seven members of the Legislative Council.

The appointing power was chiefly vested in the President and Privy Council. The judiciary power was vested in a Court of Appeals, a Supreme Court, County Courts of Common Pleas, Orphan's Courts, and Justice's Courts.

The Supreme Court consisted of three Justices, one of whom was Chief Justice and Judge of Admiralty. There was a Court of Common Pleas and Orphan's Court in each county, composed of four Justices, one of whom was styled Chief Justice. Appeals from these courts were decided in a Court of Appeals of seven persons—the President for the time being, and three persons appointed by each House.

Amendments to the Constitution being generally thought desirable, an act was passed in 1791, for the election of Delegates to a Convention for the purpose of revising it, although the Constitution itself had provided only one method of amendment, and that by the Legislature itself. The Convention was however held, and on the 12th of June, 1792, it adjourned, after preparing a new Constitution, which went into operation without submission to the people.

By this instrument the Privy Council was abolished, the title of "President" was changed to that of "Governor," the "Legislative Council" was changed to the "Senate," and the "House of Assembly" to the "House of Representatives." Their number was not changed, but might be increased by law, yet not so that the Senate should be more than half, nor less than a third of the number of the House. The Governor was to be chosen at a general election for three years, but not two terms in succession. A Court of Chancery was created.

In 1831 a third Convention was elected to revise the Constitution. It met on the 8th of November and adjourned on the 2d of December of that year, after making sundry amendments to the Constitution, which are designated in the copy given in our text, by being placed in brackets.

The sessions of the General Assembly were made biennial, the terms of the Governor and of Senators were increased from three to four years, restrictions were laid upon the passage of laws creating corporations, the elective franchise was more exactly defined, and important changes were made in the judiciary system of the State.

The article relating to future amendments, which had formerly recommended as an unexceptionable method, that at a general election of Representatives the voters should, if they chose to do so, vote *for* or *against* a Convention, was now extended so as to require this election to be a special one, and further provided, that a majority of all the citizens in the State having right to vote for Representatives must vote on the question of holding a Convention, this majority to be ascertained by comparing the number of votes cast at the last three preceding general elections.

On the 26th of February, 1851, an act was passed for taking the sense of the

people as to the call of another Convention, which returned a vote of 3,150 *for*, to 1,121 *against*.

On the 4th of February, 1852, another act was passed, which, after reciting that at the before appointed election there was a majority of votes for a Convention, called one accordingly, to meet at Dover on the 7th of December following.

Although a majority of the votes cast were for the Convention, yet, as the whole vote for and against was not that of a majority of those in the State, as ascertained by the Constitutional rule, the legality of this Convention was denied by some, on the ground that the "unexceptionable" way pointed out by the Constitution had not been followed, while others maintained that the clause alluded to was advisory, and not imperative. A majority of the Convention held to the latter construction.

A Convention of delegates assembled at Dover on the 10th of March, 1853, to amend the State Constitution, but on submitting their work to the people, it was rejected by a vote of 2,716 *for* to 4,777 *against*.

CONSTITUTION OF DELAWARE, 1831.

SUMMARY.

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- I. Declaration of Rights.
- II. Legislative Department.
- III. Executive Department.
- IV. Elections.
- V. Impeachments — Treason.
- VI. Judiciary Department.
- VII. Miscellaneous Provisions.
- VIII. Oath of Office.
- IX. Mode of Amending the Constitution. Schedule.

PREAMBLE.

Religious Freedom — Inherent Rights.

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1. Freedom of religious worship.
2. Religious tests not allowed.
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5. Freedom of the press — libels.
6. Exemption from illegal seizures and searches.
7. Rights of persons accused of crime — counsel — witnesses — evidence against one's self.
8. Prosecution by information — second trial for same offense — private property for public uses.
9. Courts to be open — right of justice — suits where tried — suits against the State.
10. Suspension of laws.
11. Excessive bail and fines — cruel punishments — jails.
12. Right of bail — right of access of friends and counsel.
13. Writ of *habeas corpus*.
14. No commissions of oyer and terminer to be issued.
15. Attainder — estates of suicides — deodands.
16. Right of assembling and of petitioning.
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3. Senators — term — qualifications — number — vacancies in either House.
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5. Officers of each House.
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12. Members ineligible to other offices.
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15. Payments from treasury — receipts and expenditures.
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8. Appointing power — qualifications for office — offices incompatible.
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10. May require information of officers.
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15. Power of General Assembly over jurisdiction of inferior courts — exceptions.
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[The amendments are in brackets.]

We, the people, hereby ordain and establish this Constitution of government for the State of Delaware.

Through Divine goodness all men have, by nature, the rights of worshiping and serving their Creator according to the dictates of their consciences; of enjoying and defending life and liberty; of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness: And they may for this end, as circumstances require, from time to time, alter their Constitution of government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the Universe, and piety and morality, on which the prosperity of communities depends, are thereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate, that shall in any case inter-

fere with, or in any manner control, the rights of conscience, in the free exercise of religious worship: nor shall a preference be given by law to any religious societies, denomination, or modes of worship.

§ 2. No religious test shall be required as a qualification to any office or public trust, under this State.

§ 3. All elections shall be free and equal.

§ 4. Trial by jury shall be as heretofore.

§ 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any such subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury may determine the facts and the law, as in other cases.

§ 6. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be, nor then, unless there be probable cause, supported by oath or affirmation.

§ 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; to be plainly and fully informed of the nature and cause of the accusation against him; to meet the witnesses in their examination face to face; to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or the law of the land.

§ 8. No person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, and no person shall be for the same offense twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

§ 9. All courts shall be open, and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall deter-

mine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

§ 10. No power of suspending laws shall be exercised, but by the authority of the Legislature.

§ 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails, a proper regard shall be had to the health of prisoners.

§ 12. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is positive or the presumption great; and when persons are confined on accusation for such offenses, their friends and counsel may at proper seasons have access to them.

§ 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

§ 14. No commission of oyer and terminer or jail delivery shall be issued.

§ 15. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death, and if any person be killed by accident, no forfeiture shall be thereby incurred.

§ 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends, by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also, in governments of a republican form, contravenes the social principles of such government founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government for redress of grievances or other proper purposes, by petition, remonstrance or address.

§ 17. No standing army shall be kept up without the consent of the Legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

§ 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law.

§ 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever, from any king, prince or foreign state.

We declare, that every thing in this article is reserved out of the general powers of government hereinafter mentioned.

ARTICLE II.

SECTION 1. The Legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

§ 2. The Representatives shall be chosen [for two years] by the citizens residing in the several counties.

No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be seven Representatives chosen in each county, until a greater number of Representatives shall by the General Assembly be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number.

§ 3. The Senators shall be chosen for [four] years by the citizens residing in the several counties.

No person shall be a Senator who shall not have attained to the age of twenty-seven years, and have, in the county in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real or personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State, three years next preceding the first meeting of the Legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

There shall be three Senators chosen in each county. When a greater number of Senators shall by the General Assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one third, of the number of Representatives.

[If the office of Representative, or the office of Senator, become vacant before the regular expiration of the term thereof, a Representative or a Senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.

When there is a vacancy in either House of the General Assembly, and the General Assembly is not in session, the Governor shall have

power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by a Speaker of either House in case of vacancy.]

§ 4. The General Assembly shall meet on the first Tuesday of January [biennially], unless sooner convened by the Governor.

[The first meeting of the General Assembly, under this amended Constitution, shall be on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-three, which shall be the commencement of the biennial sessions.]

§ 5. Each House shall choose its Speaker and other officers; and also each House, whose Speaker shall exercise the office of Governor, may choose a Speaker *pro tempore*.

§ 6. Each House shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

§ 7. Each House may determine the rules of its proceedings, punish any of its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

§ 8. Each House shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

§ 9. The doors of each House, and of Committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

§ 10. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

§ 11. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect, until an election of the Representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

§ 12. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall

have been increased, during such time. No person concerned in any army or navy contracts, no member of Congress, nor any person holding any office under this State or the United States, except the Attorney-General, officers usually appointed by the courts of justice respectively, attorneys at law, and officers in the militia, holding no disqualifying office, shall, during his continuance in Congress or in office, be a Senator or Representative.

§ 13. When vacancies happen in either House, writs of election shall be issued by the Speakers respectively, or, in cases of necessity, in such other manner as shall be provided by law; and the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected might have done, if such vacancies had not happened.

§ 14. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill, from the operations of which, when passed into a law, revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

§ 15. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published *at least once in every two years*.

§ 16. [The State Treasurer shall be appointed biennially by the House of Representatives, with the concurrence of the Senate. In case of vacancy in the office of State Treasurer in the recess of the General Assembly, either through omission of the General Assembly to appoint, or by the death, removal out of the State, resignation or inability of the State Treasurer, or his failure to give security, the Governor shall fill the vacancy by appointment, to continue until the next meeting of the General Assembly. The State Treasurer shall settle his accounts annually with the General Assembly, or a Committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State Treasurer shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as Treasurer, and discharged the balance, if any, due thereon.]

§ 17. [No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two-thirds of each branch of the Legislature, and with a reserved power of revocation by the Legislature; and no act of incorporation which may be hereafter enacted shall continue in force for a longer

period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.]

ARTICLE III.

SECTION 1. The supreme executive powers of the State shall be vested in a Governor.

§ 2. The Governor shall be chosen by the citizens of the State.

The returns of every election for Governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the Speaker of the Senate [or in case of the vacancy of the office of the Speaker of the Senate, or his absence from the State, to the Secretary of State], who shall keep the same until a Speaker of the Senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both Houses of the Legislature. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each county. The person having the highest number of votes shall be Governor; but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the Speaker of the Senate shall have an additional casting vote.

Contested elections of a Governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the Legislature, to be selected by ballot of the House respectively; every person of the committee shall take an oath or affirmation, that, in determining the said election, he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

§ 3. The Governor shall hold his office during [four] years from the third Tuesday in January next ensuing his election, and shall not be [eligible a second time to said office].

§ 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the Legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State.

§ 5. No member of Congress, nor person holding any office under the United States, or this State, shall exercise the office of Governor.

§ 6. The Governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

§ 7. He shall be Commander-in-Chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

§ 8. He shall appoint all officers whose offices are established by this Constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county, who shall not have a right to vote for Representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of Judge, Treasurer, Attorney-General, Secretary, Prothonotary, Register for the probate of wills and granting letters of administration, Recorder, Sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the Legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: Treasurer, Attorney-General, Prothonotary, Register or Sheriff. All commissions shall be in the name of the State, shall be sealed with the Great Seal, and be signed and tested by the Governor.

§ 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. [He shall set forth in writing, fully, the grounds of all reprieves, pardons and remissions, to be entered in the register of his official acts, and laid before the General Assembly at their next session.]

§ 10. He may require information in writing, from the officers in the Executive Department, upon any subject relating to the duties of their respective offices.

§ 11. He shall, from time to time, give to the General Assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

§ 12. He may, on extraordinary occasions, convene the General Assembly; and, in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

§ 13. He shall take care that the laws be faithfully executed.

§ 14. [Upon any vacancy happening in the office of Governor by his death, removal, resignation or inability, the Speaker of the Senate shall exercise the office until a Governor elected by the people shall be duly qualified. If there be no Speaker of the Senate, or upon a further vacancy happening in the office by his death, removal, resig-

nation or inability, the Speaker of the House of Representatives shall exercise the office until a Governor elected by the people shall be duly qualified. If the person elected Governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it until a Governor shall be elected and duly qualified. If, upon a vacancy happening in the office of Governor, there be no other person who can exercise said office within the provisions of the Constitution, the Secretary of State shall exercise the same until the next meeting of the General Assembly, who shall immediately proceed to elect, by joint ballot of both Houses, a person to exercise the office until a Governor elected by the people shall be duly qualified. If a vacancy occur in the office of Governor, or if the Governor elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for Governor shall be held at the next general election, unless the vacancy happen within six days next preceding the election, exclusive of the day of the happening of the vacancy and the day of the election; in that case, if an election for Governor would not have been held at said election without the happening of such vacancy, no election for Governor shall be held at said election in consequence of such vacancy.] If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a Governor, the Governor of the last year, or the Speaker of the Senate or of the House of Representatives, who may then be in the exercise of the executive authority, shall continue therein until a determination of such contested election. The Governor shall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the Legislature.

§ 15. A Secretary shall be appointed and commissioned during the Governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required by either branch of the Legislature, lay the same, and all papers, minutes and vouchers relative thereto, before them, and shall perform such other duties as shall be enjoined on him by law. He shall have a compensation for his services, to be fixed by law.

ARTICLE IV.

SECTION 1. [All elections for Governor, Senators, Representatives, Sheriffs and Coroners, shall be held on the second Tuesday of November, and be by ballot. And in such elections, every free white male

citizen of the age of twenty-two years or upward, having resided in the State one year next before the election, and the last month thereof in the county where he offers to vote, and having, within two years next before the election, paid a county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years, and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax: *Provided*, That no person in the military, naval or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, or pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the Legislature may impose the forfeiture of the right of suffrage as a punishment for crime.]

§ 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from an arrest during their attendance at elections, and in going to and returning from them.

ARTICLE V.

SECTION 1. The House of Representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the Senators.

§ 2. The Governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment and punishment according to law.

§ 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

ARTICLE VI.

SECTION 1. [The judiciary power of this State shall be vested in a Court of Errors and Appeals, a Superior Court, a Court of Chancery,

an Orphans' Court, a Court of Oyer and Terminer, a Court of General Sessions of the Peace and Jail Delivery, a Register's Court, Justices of the Peace, and such other courts as the General Assembly, with the concurrence of two-thirds of all the members of both Houses, shall from time to time establish.]

§ 2. [To compose the said courts there shall be five Judges in the State. One of them shall be Chancellor of the State; he shall also be President of the Orphans' Court; he may be appointed in any part of the State. The other four Judges shall compose the Superior Court, the Court of Oyer and Terminer, and the Court of General Sessions of the Peace and Jail Delivery, as hereinafter prescribed. One of them shall be Chief Justice of the State, and may be appointed in any part of it. The other three Judges shall be Associate Judges, and one of them shall reside in each county.]

§ 3. [The Superior Court shall consist of the Chief Justice and two Associate Judges. The Chief Justice shall preside in every county, and in his absence the Senior Associate Judge sitting in the county shall preside. No Associate Judge shall sit in the county in which he resides. Two of the said Judges shall constitute a quorum. One may open and adjourn the court, and make all rules necessary for the expediting of business.

This court shall have jurisdiction of all causes of a civil nature, real, personal and mixed, at common law, and all other the jurisdiction and powers vested by the laws of this State in the Supreme Court or Court of Common Pleas.]

§ 4. [The Court of General Sessions of the Peace and Jail Delivery shall be composed in each county of the same Judges and in the same manner as the Superior Court. Two shall constitute a quorum. One may open and adjourn the court. This court shall have all the jurisdiction and powers vested by the laws of this State in the Court of General Quarter Sessions of the Peace and Jail Delivery.]

§ 5. [The Chancellor shall hold the Court of Chancery. This court shall have all the powers vested by the laws of this State in the Court of Chancery.]

§ 6. [The Court of Oyer and Terminer shall consist of all the Judges except the Chancellor. Three of the said Judges shall constitute a quorum. One may open and adjourn the court. This court shall exercise the jurisdiction now vested in the Courts of Oyer and Terminer and General Jail Delivery by the laws of this State. In the absence of the Chief Justice the Senior Associate present shall preside.]

§ 7. [The Court of Errors and Appeals shall have jurisdiction to issue writs of error to the Superior Court, and to receive appeals from the Court of Chancery, and to determine finally all matters in error

in the judgment and proceedings of said Superior Court, and all matters of appeal in the interlocutory or final decrees and proceedings in Chancery. The Court of Errors and Appeals upon a writ of error to the Superior Court shall consist of three judges at least; that is to say, the Chancellor who shall preside, the Associate Judge who could not on account of his residence sit in the cause below, and one of the Judges who did sit in the said cause. The Judges of the Superior Court to whom it appertains to hold the Superior Court in each county shall sit alternately in the Court of Errors and Appeals in cases in error brought from the Superior Court held in such county, according to the following rotation, that is to say: If the judgment below be rendered in the court in New Castle county at the first term of the said court there, the Chief Justice shall sit; if at the second term of said court there, the Associate Judge for Kent county shall sit; and if at the third term of said court there, the Associate Judge for Sussex county shall sit. If the judgment below be rendered in the court in Kent county, at the first term of said court there, the Associate Judge for Sussex county shall sit; if at the second term of the said court there, the Associate Judge for New Castle county shall sit; and if at the third term of the court there the Chief Justice shall sit. If the judgment below be rendered in the court in Sussex county at the first term of said court there, the Associate Judge for New Castle county shall sit; if at the second term of the said court there, the Chief Justice shall sit; and if at the third term of the said court there, the Associate Judge for Kent county shall sit; and so from term to term, in every succeeding rotation, the Judges beginning and following each other in the same order. But if, in any case in the Court of Error and Appeals, the Judge who sat in the cause below, and ought, according to this provision, to sit in the Court of Errors and Appeals, be absent, unable or disqualified, then either of the other Judges who sat in the cause below may sit; and the court shall have power to prevent any inconvenience or delay from observing the rotation above described, by making an order or regulation for either of the Judges who sat in the cause below, to sit in such cause in the Court of Errors and Appeals. If a Judge did not sit in the cause below, he shall sit in the said cause in the Court of Errors and Appeals, unless there be a legal exception to him; but the court, if there be three Judges present, may proceed in his absence.

Whenever the Superior Court consider that a question of law ought to be decided before all the Judges, they shall have power, upon the application of either party, to direct it to be heard in the Court of Errors and Appeals; and in that case the Chancellor and four Judges

shall compose the Court of Errors and Appeals, the Chancellor presiding, and any four of them being a quorum; and in the absence of the Chancellor the Chief Justice shall preside. The Superior Court in exercising this power may direct a cause to be proceeded into verdict and judgment in that court, or to be otherwise proceeded in, as shall be best in expediting justice.

Upon appeal from the Court of Chancery, the Court of Errors and Appeals shall consist of the Chief Justice and three Associate Judges; any three of them shall be a quorum.]

§ 8. [In matters of Chancery jurisdiction in which the Chancellor is interested, the Chief Justice sitting in the Superior Court, without the Associate Judges, shall have jurisdiction, with an appeal to the Court of Errors and Appeals, which shall consist in this case of the three Associate Judges, the Senior Associate Judge presiding.]

§ 9. [The Governor shall have power to commission a Judge *ad litem* to decide any cause in which there is a legal exception to the Chancellor or any Judge, so that such appointment is necessary to constitute a quorum in either court. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The Judge so appointed shall receive a reasonable compensation, to be fixed by the General Assembly. A Member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a Judge *ad litem*.]

§ 10. [The Orphans' Court in each county shall be held by the Chancellor and the Associate Judge residing in the county, the Chancellor being present. Either of them, in the absence of the other, may hold the court. When they concur in opinion, there shall be no appeal from their decision except in matter of real estate. When their opinions are opposed, or when a decision is made by one of them, and in all matters involving a right to real estate, or the appraised value or other value thereof, there shall be an appeal to the Superior Court for the county, which shall have final jurisdiction in every such case. This court shall have all the jurisdiction and powers vested by the laws of this State in the Orphan's Court.]

§ 11. [The jurisdiction of each of the aforesaid courts shall be co-extensive with the State. Process may be issued out of each court, in either county, into every county.]

§ 12. [The General Assembly, notwithstanding any thing contained in this article, shall have power to repeal or alter any act of the General Assembly, giving jurisdiction to the Courts of Oyer and Terminer and General Jail Delivery, or to the Supreme Court, or the Court of Common Pleas, or the Court of General Quarter Sessions of the Peace and General Jail Delivery, or to the Orphan's Court, or to the Court

of Chancery, in any matter, or giving any power to either of said courts. Until the General Assembly shall otherwise direct, there shall be an appeal to the Court of Errors and Appeals in all cases in which there is an appeal, according to an act of the General Assembly, to the High Court of Errors and Appeals.]

§ 13. [Until the General Assembly shall otherwise provide, the Chancellor shall exercise all the powers which any law of the State vests in the Chancellor, besides the general powers of the Court of Chancery; and the Chief Justice and Associate Judges shall each singly exercise all the powers which any law of this State vests in the Judges singly of the Supreme Court or Court of Common Pleas.]

§ 14. [The Chancellor and Judges shall respectively hold their offices during good behavior, and receive for their services a compensation which shall be fixed by law and paid quarterly, and shall not be less than the following sums, that is to say: The annual salary of the Chief Justice shall not be less than the sum of one thousand two hundred dollars; and the annual salary of the Chancellor shall not be less than the sum of one thousand one hundred dollars; and the annual salaries of the Associate Judges, respectively, shall not be less than the sum of one thousand dollars each. They shall hold no other office of profit, nor receive any fees or perquisites in addition to their salaries for business done by them. The Governor may, for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the General Assembly. In all cases where the Legislature shall so address the Governor, the cause of removal shall be entered on the journals of each House. The Judge against whom the Legislature may be about to proceed shall receive notice thereof, accompanied with the causes alleged for his removal, at least five days before the day on which either House of the General Assembly shall act thereupon.]

§ 15. [The General Assembly may by law give to any inferior courts by them to be established, or to one or more Justices of the Peace, jurisdiction of the criminal matters following, that is to say: Assaults and batteries; keeping without license a public house of entertainment, tavern, inn, ale-house, ordinary or victualing-house; retailing or selling without license wine, rum, brandy, gin, whisky, or spirituous or mixed liquors contrary to law; disturbing camp-meetings held for the purpose of religious worship; disturbing other meetings for the purpose of religious worship; nuisances; horse-racing, cock-fighting and shooting matches; larcenies committed by negroes or mulattoes; and the offense of knowingly buying, receiving or concealing, by negroes or mulattoes, of stolen goods and things the subject

of larceny, and of any negro or mulatto being accessory to any larceny. The General Assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by grand jury, or trial by petit jury, and may grant or deny the privilege of appeal to the Court of General Sessions of the Peace. The matters within this section shall be, and the same hereby are, excepted and excluded from the provision of the Constitution, that: "No person shall for an indictable offense be proceeded against criminally by information," and also from the provision of the Constitution concerning trial by jury.]

§ 16. In civil causes when pending, the [Superior] Court shall have the power, before judgment, of directing, upon such terms as they shall deem reasonable, amendments in pleadings and legal proceedings, so that, by error in any of them, the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within this State.

§ 17. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the cost then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the Clerk or Prothonotary of the court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

§ 18. By the death of any party, no suit in Chancery or at law, where the cause of action survives, shall abate, but until the Legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator, being duly served with a *scire facias* thirty days before the term thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and, in any of those cases, the court shall pass a decree, or render judgment for or against the executors or administrators, as to right appertains. But, where an executor or administrator of a deceased respondent or defendant becomes a party, the court, upon motion, shall grant such a continuance of the cause as to the Judges shall appear proper.

§ 19. Whenever a person, not being an executor or administrator, appeals from a decree of the Chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the Chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the Chancellor, or by a Judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fail to make his plea good.

§ 20. No writ of error shall be brought upon any judgment heretofore confessed, entered or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered, or rendered, but within five years after the confessing, entering or rendering thereof; unless the person entitled to such writ be an infant, feme covert, non compos mentis, or a prisoner, and then within five years, exclusive of the time of such disability.

§ 21. An executor, administrator, or guardian shall file every account with the Register for the county, who shall, as soon as conveniently may be, carefully examine the particulars, with the proofs thereof, in the presence of such executor, administrator or guardian, and shall adjust and settle the same, according to the very right of the matter and the law of the land; which account so settled shall remain in his office for inspection; and the executor, administrator or guardian shall, within three months after such settlement, give due notice in writing to all persons entitled to shares of the estate, or to their guardians respectively, if residing within the State, that the account is lodged in the said office for inspection. [Exceptions may be made by persons concerned to both sides of every such account, either denying the justice of the allowances made to the accountant, or alleging further charges against him; and the exceptions shall be heard in the Orphan's Court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and the law of the land.]

§ 22. The Registers of the several counties shall respectively hold the Register's Court in each county. Upon the litigation of a cause, the depositions of the witnesses examined shall be taken at large in writing, and make part of the proceedings in the cause. This court may issue process, throughout the State, to compel the attendance of witnesses. Appeals may be made from the Register's Court to the [Superior] Court, whose decisions shall be final. In cases where a Register is interested in questions concerning the probate of wills, the

granting of letters of administration, or executors, administrators or guardians' accounts, the cognizance thereof shall belong to the Orphan's Court, with an appeal to the [Superior] Court, whose decision shall be final.

§ 23. [The Prothonotary of the Superior Court may issue process, take recognizances of bail and enter judgments, according to law and the practices of the court.] No judgment in one county shall bind lands or tenements in another, until a *testatum fieri facias* being issued, shall be entered of record in the office of the Prothonotary of the county wherein the lands or tenements are situated.

§ 24. The Governor shall appoint a competent number of persons to the office of Justice of the Peace, not exceeding twelve in each county, until two-thirds of both Houses of the Legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well, but may be removed by the Governor within that time on conviction of misbehavior in office, or on the address of both Houses of the Legislature.

§ 25. The style in all process and public acts shall be "*The State of Delaware.*" Prosecutions shall be carried on in the name of the State.

ARTICLE VII.

SECTION 1. The members of the Senate and House of Representatives, the Chancellor, the judges, and the Attorney-General shall, by virtue of their offices, be conservators of the peace throughout the State; and the Treasurer, Secretary, Prothonotaries, Registers, Recorders' Sheriffs and Coroners shall, by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

§ 2. The Representative, and, when there shall be more than one, the Representatives, of the people of this State in Congress, shall be voted for at the same places where Representatives in the Legislature are voted for, and in the same manner.

§ 3. [The Sheriff and Coroner of each county shall be chosen by the citizens residing in such county. They shall hold their respective offices for two years, if so long they behave themselves well, and until successors be duly qualified; but no person shall be twice chosen Sheriff upon election by the citizens in any term of four years. They shall be commissioned by the Governor. The Governor shall fill vacancies in these offices by appointments, to continue until the next election, and until successors shall be duly qualified. The Legislature, two-thirds of each branch concurring, may vest the appointment of Sheriffs and Coroners in the Governor; but no person shall be twice appointed Sheriff in any term of six years.]

§ 4. The Attorney-General [Registers in Chancery], Prothonotaries; Registers, Clerks of the Orphans' Court and of the Peace, shall respectively be commissioned for five years, if so long they shall behave themselves well; but may be removed by the Governor within that time on conviction of misbehavior in office, or on the address of both Houses of the Legislature. Prothonotaries [Registers in Chancery], Clerks of the Orphans' Court, Registers, Recorders and Sheriffs, shall keep their offices in the town or place in each county in which the [Superior] Court [is] usually held.

§ 5. Attorneys at law, all inferior officers in the Treasury Department, election officers, officers relating to taxes, to the poor, and to highways, Constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

§ 6. All salaries and fees annexed to officers shall be moderate; and no officer shall receive any fees whatever without giving to the person who pays, a receipt for them, if required, therein specifying every particular, and the charge for it.

§ 7. No costs shall be paid by a person accused on a bill being returned *ignoramus*, nor on acquittal by a jury.

§ 8. The rights, privileges, immunities and estates of religious societies and corporate bodies shall remain as if the Constitution of this State had not been altered. No [ordained] clergyman or [ordained] preacher of the gospel of any denomination shall be capable of holding any civil office in the State, or of being a member of either branch of the Legislature while he continues in the exercise of the pastoral or clerical functions.

§ 9. All the laws of this State existing at the time of making this Constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this Constitution had not been made.

§ 10. This Constitution shall be prefixed to every edition of the laws made by direction of the Legislature.

§ 11. The Legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them, and all acts of the General Assembly, into such order, and publishing them in such manner, that thereby the knowledge of them may be generally diffused; for choosing Inspectors and Judges of elections, and regulating the same in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints

thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by Sheriffs, where they will bear a division, into as many parcels as may be without spoiling the whole, and for advertising and making the sales in such manner, and at such times and places, as may render them most beneficial to all persons concerned; and for establishing schools and promoting arts and sciences.

§ 12. [No property qualification shall be necessary to the holding of any office in this State, except the office of Senator in the General Assembly, and the office of Assessor, Inquisitor on lands and levy Court Commissioner, and except such offices as the General Assembly shall by law designate.]

ARTICLE VIII.

Members of the General Assembly, and all officers, executive and judicial, shall be bound by oath or affirmation to support the Constitution of this State, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

The General Assembly, whenever two-thirds of each House shall deem it necessary, may, with the approbation of the Governor, propose amendments to this Constitution, and at least three, and not more than six, months before the next general election of Representatives, duly publish them in print, for the consideration of the people; and if three-fourths of each branch of the Legislature shall, after such an election and before another, ratify the said amendments, they shall be valid to all intents and purposes as parts of this Constitution. No Convention shall be called but by the authority of the people; and an unexceptionable mode of making their sense known will be for them at a [special election on the third Tuesday of May in any year,] to vote by ballot for or against a Convention, as they shall severally choose to do; and if, thereupon, it shall appear that a majority of all the citizens in the State, having right to vote for Representatives, have voted for a Convention, the General Assembly shall accordingly, at their next session, call a Convention, to consist of at least as many members as there are in both Houses of the Legislature, to be chosen in the same manner, at the same places and at the same time that Representatives are by the citizens entitled to vote for Representatives, on due notice given for one month, and to meet within three months after they shall be elected. [The majority of all the citizens in the State having right to vote for Representatives shall be ascer-

tained by reference to the highest number of votes cast in the State at any one of the three general elections, next preceding the day of voting for a Convention, except when they may be less than the whole number of votes voted both for and against a Convention, in which case the said majority shall be ascertained by reference to the number of votes given on the day of voting for or against a Convention; and whenever the General Assembly shall deem a Convention necessary, they shall provide by law for the holding of a special election for the purpose of ascertaining the sense of the majority of the citizens of the State entitled to vote for Representatives.]

SCHEDULE.

That no inconveniences may arise from the amendments of the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained as follows:

SECTION 1. The offices of the present Senate and Representatives shall not be vacated by any amendment of the Constitution made in this Convention, nor otherwise affected, except that the terms of the Representatives and the terms of the Senators, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year; and the terms of the Senators, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year; and the terms of the Senators, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

The General Assembly shall meet on the first Tuesday of January next, and shall not be within the amended provision respecting biennial sessions, which biennial sessions shall commence with the session of the General Assembly on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-three.

§ 2. The offices of the present Sheriffs and Coroners shall not be vacated by any amendment to the Constitution made in this Convention, nor otherwise affected, except that the term of office of the Sheriff of Sussex county is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, and until a successor be duly qualified; and on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, shall be the first election for Sheriff in Sussex

county under this amended Constitution. And the term of the present Coroner for Sussex county is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until a successor shall be duly-qualified; and on the said last-mentioned day shall be the first election for Coroner in Sussex county under this amended Constitution.

The terms of the present Sheriffs and Coroners for Kent county and New Castle county are hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and until successors to them respectively be duly qualified; and on or after the first Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, the Governor shall have power to appoint a Sheriff and a Coroner for New Castle county, and a Sheriff and Coroner for Kent county, to continue in office until the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them respectively be duly qualified. And on the said last-mentioned day shall be the first election for Sheriff and for Coroner in New Castle county and in Kent county under this amended Constitution, unless a vacancy happen in the office of Sheriff or Coroner of New Castle or Kent county, or of coroner for Sussex county, before the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two; in which case an election shall be held on that day for a Sheriff or Coroner under this amended Constitution, in place of the Sheriff or Coroner whose office had become vacant.

§ 3. The first election for Representatives under this amended Constitution shall be held the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two; which shall be the commencement of biennial elections. At this election one Senator shall be chosen in each county for four years. Also, at the biennial election to be held in the several counties on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, two Senators shall be chosen in each county for four years each. But, as the term of one Senator in each county will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held, to provide for this special case, a Senator shall be chosen in each county at the election held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, for one year, to succeed the Senator for such county whose term will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and to continue in office

until the second Tuesday in November, in the year of our Lord one thousand eight hundred and thirty-four, when two Senators shall be chosen in each county as afore-provided.

§ 4. The term of office of the present Governor shall not be vacated nor extended by amendment made to the Constitution in this Convention; but the said office shall continue during the original term thereof; but the ninth and fourteenth sections of the third article of this Constitution shall be immediately in force as amended. An election for Governor shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two.

§ 5. This Constitution as amended, so far as shall concern the Judicial Department, shall commence and be in operation from and after the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two. All the courts of justice now existing shall continue with their present jurisdiction, and the Chancellor and Judges, and the Clerks of the said courts, shall continue in office until the said third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two; upon which day the said courts shall be abolished, and the offices of the said Chancellor, Judges, and Clerks shall expire. All writs of error and appeals and proceedings which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the High Court of Errors and Appeals, and all the books, records, and papers of said court, shall be transferred to the Court of Errors and Appeals established by this amended Constitution; and the said writs of errors, appeals, and proceedings shall be proceeded in, in the said Court of Errors and Appeals, to final judgment, decree, or other determination.

All suits, proceedings and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Supreme Court, or Court of Common Pleas, and all books, records and papers of the said courts shall be transferred to the Superior Court established by this amended Constitution, and the said suits, proceedings and matters shall be proceeded in to final judgment or determination in the said Superior Court. All indictments, proceedings and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of General Quarter Sessions of the Peace and Jail Delivery, shall be transferred to and proceeded in to final judgment and determination in the Court of General Sessions of the Peace and Jail Delivery established by this amended Constitution, and all books, records and papers of said Court of General Quarter Sessions of the Peace and Jail Delivery shall be transferred to the said Court of General Sessions of the Peace and

Jail Delivery. All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of Chancery or in the Orphans' Court, and all records, books and papers of said courts respectively, shall be transferred to the Court of Chancery or Orphans' Court respectively, established by this amended Constitution, and the said suits, proceedings and matters shall proceed into final decree, order, or other determination. *

§ 6. The Registers' Courts and Justices of the Peace shall not be affected by any amendments of the Constitution made in this Convention; but the said courts and the terms of office of Registers and Justices of the Peace shall remain the same as if said amendments had not been made.

§ 7. The General Assembly shall have power to make any law necessary to carry into effect the amended Constitution.

§ 8. The provision in the twentieth section of the sixth article of this amended Constitution (being the thirtieth section of the sixth article of the original Constitution), of limitation of writs of error, shall have relation to, and take date from, the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, the date of said original Constitution.

§ 9. The Governor shall have power to issue writs of election to supply vacancies in either House of the General Assembly that have happened or may happen.

§ 10. It is declared that nothing in this amended Constitution gives a writ of error from the Court of Errors and Appeals to the Court of Oyer and Terminer or Court of General Sessions of the Peace and Jail Delivery, nor an appeal from the Court of General Sessions of the Peace and Jail Delivery.

The acts of the General Assembly, increasing the number of Justices of the Peace, shall remain in force until repealed by the General Assembly; and no office shall be vacated by the amendment to this Constitution, unless the same be expressly vacated thereby, or the vacating the same is necessary to give effect to the amendments.

Done in Convention the second day of December, in the year of our Lord one thousand eight hundred and thirty-one, and of the Independence of the United States of America, the fifty-sixth. In testimony whereof, we have hereunto subscribed our names.

CHARLES POLK,
President.

Thomas Adams,
John Caulk,
John M. Clayton,
Peter L. Cooper,
Thomas Deakyne,
Edward Dingle,
William Dunning,
John Elliott,
James Fisher,

Willard Hall,
Thomas W. Handy,
John Harlan,
Charles H. Haughey,
Hughitt Layton,
James C. Lynch,
James B. Macomb,
Joseph Maull,
Elias Naudain,

William Nicholls,
Samuel Ratcliff,
John Raymond,
Geo. Read, Jr.,
Henry F. Rodney,
James Rogers,
William Seal,
P. Spruance, Jr.,
Wm. D. Waples.

(Attest.)

W. P. BROBSON,
Secretary.



FLORIDA.

Florida was first discovered by Sebastian Cabot, sailing under English authority, in 1496, and was visited by Ponce de Leon in 1512. At a later period, claims to its possession were laid by the French and Spaniards, who alternately attempted to hold possession; but the first important explorations and settlements were made by the latter, who founded St. Augustine in 1564, and Pensacola in 1596. The country was ceded to England, by Spain, on the 10th of February, 1763, in accordance with the terms of a preliminary Convention, signed November 3, 1762, in exchange for Havana and a part of the island of Cuba, which had been captured by the English in August of that year. France at the same time confirmed to England all the territory east of the Mississippi, excepting the city of New Orleans, and the island upon which it is built.

By a proclamation of George III, dated October 7, 1763, establishing separate governments in the provinces of Quebec, East Florida, West Florida and Grenada, the boundaries of East Florida were fixed: on the west, the Apalachicola river; on the north, the line now recognized as that between Georgia and Florida; and on the east and south, the Atlantic ocean and Gulf of Mexico. West Florida extended west to lakes Ponchartrain and Maurepas, and the Mississippi river, and north to the parallel of 31° north latitude, and included parts of the present States of Florida, Alabama, Mississippi and Louisiana.

Upon a recommendation of the Board of Trade, March 23, 1764, the northern line of West Florida was extended northward on the 6th of June of that year, to a parallel of latitude running from the mouths of the Yazoo river to the Chattahoochee river, as now called, and this continued to be the northern boundary of West Florida while it remained a British province.

Most of the Spaniards left the country after it passed into the hands of the English; but active measures were taken by the latter to form settlements, and large numbers of colonists were brought in. The production of naval stores, and cultivation of indigo, formed the principal objects of industry, and, during the twenty years of British occupation, rapid progress was made in settlement and improvements. Upon the breaking out of the Revolution, many loyalists from Carolina and Georgia removed to Florida.

In September, 1779, a Spanish force from New Orleans invaded West Florida, reduced the British posts at Baton Rouge, Panmure, near Natches, and other places, and, a few months after, Mobile was captured by another expedition; leaving Pensacola as the only post in West Florida in the possession of the English.

In 1781, St. Augustine and its dependencies were captured by the Spaniards, and with these the most of East Florida passed again under the authority of Spain. Both Floridas were confirmed to Spain by Great Britain in a treaty, January 20, 1783.

Provisional articles of a treaty between Great Britain and the United States were signed at Paris, November 30, 1782, and were included in Definitive Articles of Peace and Friendship, signed September 3, 1783, which recognized the line of 31° north latitude as the southern boundary of the United States. The former northern boundary of West Florida was, however, claimed by Spain for several years; but by the treaty of San Lorenzo el Real, October 27, 1795, the line of 31° was agreed upon.

In 1800, Spain retroceded to France the Province of Louisiana, and by a treaty made April 30, 1803, France sold to the United States that province, or colony,

and its dependencies, with the same extent it had had under Spain, and originally under France. The boundary of Louisiana eastward, had been the Perdido river, which thus became the western limit of Florida under the treaty; yet Spain still held possession of portions of this territory, and for some years insisted that their claims still extended to the western limit of West Florida, as it had been held under Great Britain. The subject became one of irritation and fruitless negotiation between the governments of the United States and Spain, which was further increased by unlawful proceeding on the part of local Spanish officials, and spoliations upon American commerce, committed by the subjects, and carried into the ports of Spain. *

The inhabitants within the disputed territory endured these uncertainties with patience, but at length, on the 26th of September, 1810, they met in Convention at Baton Rouge, and declared the independence of West Florida, as a *free and independent State*; absolved all allegiance to "a government which no longer protected them," and sought to be acknowledged and protected as an integral part of the United States.

On the 27th of October, 1810, President Monroe issued a proclamation, asserting the right of the United States, under the Louisiana purchase, annexing the territory in question to Orleans Territory, and directing the Governor of that Territory to take possession in the name, and on behalf, of the United States. In this proclamation, he declared that "the previous temporary acquiescence of the United States, in the occupation of said territory, had not been the result of any distrust of its title, but had been occasioned by their conciliatory views, and a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly power." The approaching controversy with England, and danger lest that Government should take advantage of the condition of affairs, had an influence in these proceedings, and led to the passage of a joint resolution of Congress, approved January 15, 1811, as follows:

"Taking into view the peculiar situation of Spain, and of her American provinces, and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity and commerce; Therefore, *Resolved*, . . . That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign power; and that a due regard for their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, declare that the said territory shall, in their hands, remain subject to future negotiation."

This was accompanied by an act of the same date, authorizing the President to take possession of, and occupy all or any part of the territory east of the Perdido and south of Georgia and the Mississippi Territory, in case any arrangement had been or might be made, with the local authority of the said territory, for delivering up the possession of the same, or any part thereof, to the United States, or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign government. An act was also passed February 12, 1813, authorizing the occupation of any part of the territory west of the Perdido, not then in possession of the United States.

The claims of the United States against Spain, on account of spoliations upon American commerce, were admitted as a just subject of settlement; and the importance of acquiring the territory by the United States became every year more apparent. A treaty of amity, settlement and limits was at length held on

the 22d of February, 1819, at Washington, which was ratified by the King of Spain, with the consent of the Cortes, October 24, 1820, and by the President of the United States, with the advice and consent of the Senate, February 22, 1821, by which the whole of Florida was ceded to the United States. A law was passed March 3, 1821, for carrying this treaty into effect, and the final surrender was made to General Andrew Jackson, the Commissioner appointed for the purpose—in East Florida, at St. Augustine, on the 10th, and at Pensacola, in West Florida, on the 17th of July, 1821.

By this treaty, the United States agreed to satisfy its own citizens for all claims against Spain, not exceeding \$5,000,000 in the aggregate, and both Governments renounced certain claims for injuries arising from causes specified in the treaty. Private rights were to be maintained; all grants of land made before January 24, 1818, were confirmed; and, as soon as consistent with the principles of the Federal Constitution, the inhabitants were to be admitted to the enjoyment of all the rights, privileges and immunities of citizens of the United States.

A Territorial government was established in Florida by act of March 30, 1822, East and West Florida being united, excepting that a Superior Court was established in each. With sundry amendments this form of government was continued about twenty-three years, and down to the time of her admission as a State.

On the 30th of January, 1838, the Territorial Legislature passed an act, which was approved by the Governor February 2, 1838, for calling a Convention to prepare a State Constitution. This Convention met at St. Joseph, December 3, 1838, and on the 11th of January, 1839, agreed upon a Constitution, and a memorial to Congress, asking for admission into the Union as a State.

This measure was, however, delayed several years, and in the mean time projects for the formation of two Territories were entertained, and bills for this purpose were introduced in Congress, but not passed. An act for the admission of the States of Iowa and Florida was at length passed March 3, 1845.

Under this Constitution, which remained in force until 1861, the Legislative power was vested in a Senate and House of Representatives, who were collectively styled the "General Assembly," and held annual sessions. Senators were chosen for two years, by districts, one-half annually. Representation was based upon a census taken every tenth year (1845, etc.), upon the old federal principle of white population and three-fifths of the slaves. The Governor held his office four years, and was not eligible at the next term. The Judicial power was vested in a Supreme Court, a Court of Chancery, Circuit Courts and Justices' Courts. The Judges and Chancellor were chosen by a concurrent vote of the General Assembly, and held office during good behavior, but might be removed for causes, not sufficient for impeachment, by the Governor, upon the address of two-thirds of each House. A Solicitor was elected for each Circuit by the joint vote of the General Assembly, for a term of four years. A Judge Probate was appointed in each county.

In pursuance of an act passed by the General Assembly, a Convention assembled at Tallahassee on the 3d of January, 1861, which adopted an Ordinance of Secession from the Union on the 10th of January, and adjourned on the 21st subject to the call of its President or of the Governor. Called sessions were held February 26, 27, April 18-27, 1861, and January 14-27, 1862, at which sundry amendments were made to the Constitution.

Restrictions upon commercial intercourse with Florida were removed by proclamation of President Johnson April 29, 1865, and on the 13th of July he appointed William Marvin as Provisional Governor. An election of Delegates to a State Convention was held October 10th, 1865. They met at Tallahassee

October 25th, repealed the Ordinance of Secession on the 28th, and on the 7th of November agreed upon an amended Constitution. Their session was continued to November 13th, when they adjourned, having passed sundry ordinances which indicated a purpose of establishing distinctions between the white and colored races not in accordance with the prevalent views of Congress.

Under the reconstruction measures of 1867-8, a registration was made, at which 11,148 white and 15,439 colored electors were registered. An election upon the question of a Convention gave 14,250 *for* to 133 *against*, and an election of Delegates to a Convention was held. The Convention met January 20, 1868, and on the 25th of February they agreed upon and signed the Constitution given in our text. This Convention, regarding the action of the last preceding one as a nullity, again repealed the Ordinance of Secession on the 21st of February, 1868, by an unanimous vote. The Constitution of 1868 was submitted to the people at an election held on the first Monday, Tuesday and Wednesday of May, at which it was approved by a vote of 14,520 *for* to 9,491 *against*.

By an act of Congress, approved June 25, 1868, this State was to be admitted to representation in Congress upon its ratification of the XIVth Article of Amendment to the Constitution of the United States, and upon the further condition, that the State Constitution should never be amended or changed, so as to deprive any citizen, or class of citizens, of the United States, of the right to vote in said State, who were entitled to vote by the Constitution then recognized, except as a punishment for such crimes as were now felonies at common law, whereof they had been duly convicted under laws equally applicable to all the inhabitants of the State. The military authorities gave possession to the new State Government, July 4, 1868. On the 11th of July, 1868, the President issued a proclamation announcing that the Thirteenth and Fourteenth Articles of Amendment to the Constitution had been reported to him in a letter of the Governor, dated June 10th of that year, as ratified by the State Legislature.

CONSTITUTION OF FLORIDA, 1868.

SUMMARY.

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PREAMBLE.

We, the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquillity, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this Constitution.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of its citizens; and they have the right to alter or amend the same whenever the public good may require it, but the paramount allegiance of every citizen is due to the Federal Government, and no power exists with the people of this State to dissolve its connection therewith.

§ 3. This State shall ever remain a member of the American Union; the people thereof a part of the American nation; and any attempt from whatever source, or upon whatever pretense, to dissolve said Union, or to sever said nation, shall be resisted with the whole power of the State.

§ 4. The right of trial by jury shall be secured to all, and remain inviolate forever; but in all civil cases a jury trial may be waived by the parties, in the manner to be prescribed by law.

§ 5. The free exercise and enjoyment of all religious profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness, or practices subversive of the peace and safety of the State.

§ 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of invasion or rebellion the public safety may require its suspension.

§ 7. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted, nor shall witnesses be unreasonably detained.

§ 8. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great.

§ 9. No person shall be tried for a capital or otherwise infamous crime, except in cases of impeachment, and in cases of the militia when in active service in time of war, or in which the State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny under the regulation of the Legislature, unless on presentment and indictment by a grand jury; and in any trial by any court, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation.

§ 10. Every citizen may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or the press. In all criminal prosecutions and civil actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the matter charged as libelous is true, but was published for good motives, the party shall be acquitted or exonerated.

§ 11. The people shall have the right to assemble together, to consult for the common good, to instruct their representatives, and to petition the Legislature for a redress of grievances.

§ 12. All laws of a general nature shall have a uniform operation.

§ 13. The military shall be subordinate to the civil power.

§ 14. No soldier shall, in time of peace, be quartered in any house except with the consent of the owners, nor in time of war, except in manner prescribed by law.

§ 15. Representatives shall be apportioned according to population,

as well as may be, but no county shall have more than four Representatives nor less than one Representative in the Assembly.

§ 16. No person shall be imprisoned for debt, except in case of fraud.

§ 17. No bill of attainder, or *ex post facto* law, or laws impairing the obligations of contracts, shall ever be passed.

§ 18. Foreigners who are, or who may hereafter become, *bona fide* residents of the State, shall enjoy the same rights in respect to possession, enjoyment and inheritance of property as native-born citizens.

§ 19. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

§ 20. The rights of the people to be secure in their persons, houses, and effects, against unreasonable seizures and searches, shall not be violated; and no warrants issued but in probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons and thing or things to be seized.

§ 21. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 22. The people shall have the right to bear arms in defense of themselves and of the lawful authority of the State.

§ 23. No preference can be given by law to any church, sect, or mode of worship.

§ 24. This enunciation of rights shall not be construed to impair or deny others retained by the people.

ARTICLE I.

BOUNDARIES.

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama and the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; from thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida reefs to and including the Tortugas islands; thence northeastwardly to a point three leagues from the main land; thence northwestwardly three leagues from the land to a point west of the mouth of the Perdido river; thence to the place of beginning.

ARTICLE II.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Tallahassee, in the county of Leon, until otherwise located by a majority vote of the Legislature, and by a majority vote of the people

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of the State of Florida shall be divided into three departments, to wit: legislative, executive and judicial, and no person properly belonging to one of the departments shall exercise any functions appertaining to either of the others, except in those cases expressly provided for by this Constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative authority of this State shall be vested in a Senate and Assembly, which shall be designated the "Legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

§ 2. The sessions of the Legislature shall be annual, the first session on the second Monday of June, A. D. 1868, and thereafter on the first Tuesday after the first Monday of January, commencing in the year A. D. 1869. The Governor may, in the interim, convene the same in extra session by his proclamation.

§ 3. The members of the Assembly shall be chosen biennially: those of the first Legislature on the first Monday, Tuesday and Wednesday of May, A. D. 1868, and thereafter on the first Tuesday after the first Monday of November, commencing with the year 1870.

§ 4. Senators shall be chosen for the term of four years, at the same time and place as members of the Assembly; *Provided*, that the Senators elected at the first election from the Senatorial Districts designated by even numbers shall vacate their seats at the expiration of two years, and thereafter all Senators shall be elected for the term of four years, so that one-half of the whole number shall be elected biennially.

§ 5. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent.

§ 6. Each House shall judge of the qualifications, elections and returns of its own members, choose its own officers, except the President

of the Sénate, determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members present, expel a member.

§ 7. Either House, during the session, may punish by imprisonment any person not a member who shall have been guilty of disorderly or contemptuous conduct in its presence, but such imprisonment shall not extend beyond the final adjournment of the session.

§ 8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the presence of absent members, in such manner and under such penalties as each House may prescribe.

§ 9. Any person who shall be convicted of embezzlement or defalcation of the funds of the State, or of having given or offered a bribe to secure his election or appointment to office, or of having received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of honor, profit or trust in the State; and the Legislature shall, as soon as practicable, provide by law for the punishment of such embezzlement, defalcation or bribery, as a felony.

§ 10. Each House shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either House on any question shall, at the desire of any three members present, be entered on the journal.

§ 11. The doors of each House shall be kept open during its session, except the Senate while sitting in Executive session, and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

§ 12. Any bill may originate in either House of the Legislature, and after being passed in one House may be amended in the other.

§ 13. The enacting clause of every law shall be as follows: "The People of the State of Florida, represented in Senate and Assembly, do enact as follows."

§ 14. Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title, and no law shall be amended or revised by reference to its title only, but in such case the act as revised, or section as amended, shall be re-enacted and published at length.

§ 15. Every bill shall be read by sections on three several days in each House, unless, in case of emergency, two-thirds of the House where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final

passage of every bill or joint resolution shall be taken by yeas and nays; to be entered in the journal of each House, and a majority of the members present in each House shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective Houses, and by the Secretary of the Senate and Clerk of the Assembly.

§ 16. No money shall be drawn from the treasury except by appropriation made by law, and accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the Legislature.

§ 17. The Legislature shall not pass special or local laws in any of the following enumerated cases, that is to say: regulating the jurisdiction and duties of any class of officers, or for the punishment of crime or misdemeanor; regulating the practices of courts of justice; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town plats, streets, alleys and public squares; summoning and impaneling grand and petit juries and providing for their compensation; regulating county, township and municipal business; regulating the election of county, township and municipal officers; for the assessment and collection of taxes for State, county and municipal purposes; providing for opening and conducting elections for State, county and municipal officers, and designating the places of voting; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities; regulating the fees of officers.

§ 18. In all cases enumerated in the preceding section, and in all other cases where general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

§ 19. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

§ 20. Lotteries are hereby prohibited in this State.

§ 21. The Legislature shall establish a uniform system of county, township and municipal government:

§ 22. The Legislature shall provide by general law for incorporating such municipal, educational, agricultural, mechanical, mining and other useful companies or associations as may be deemed necessary.

§ 23. No person who is not a qualified elector of this State, or any person who shall have been convicted of bribery, forgery, perjury, larceny or other high crime, unless restored to civil rights, shall be permitted to serve on juries.

§ 24. Laws shall be passed regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

§ 25. Regular sessions of the Legislature may extend to sixty days; but any special session convened by the Governor shall not exceed twenty days.

§ 26. All property, both real and personal, of the wife, owned by her before marriage or acquired afterward by gift, devise, descent, or purchase, shall be her separate property and not liable for the debts of her husband.

§ 27. The Legislature shall provide for the election by the people, or appointment by the Governor, of all State, county or municipal officers not otherwise provided for by this Constitution, and fix by law their duties and compensation.

§ 28. Every bill which may have passed the Legislature shall, before becoming a law, be presented to the Governor. If he approves it he shall sign it; but if not, he shall return it with his objections to the House in which it originated, which House shall cause such objections to be entered upon its journals, and proceed to reconsider it. If, after such reconsideration, it shall pass both Houses by a two-thirds vote of the members present, which vote shall be entered on the journal of each House, it shall become a law. If any bill shall not be returned within five days (Sundays excepted) after it shall have been presented to the Governor, the same shall be a law in like manner as if he had signed it. If the Legislature, by its final adjournment, prevent such action, such bill shall be a law unless the Governor, within ten days next after the adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State who shall lay the same before the Legislature at its next session, and if the same shall receive two-thirds of the votes present, it shall become a law.

§ 29. The Assembly shall have the sole power of impeachment; but a vote of two-thirds of all the members present shall be required to impeach any officer, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Senators present. The Chief Justice shall preside at all trials by impeachment, except in the trial of the Chief Justice, when the Lieutenant-Governor shall preside. The Governor, Lieutenant-Governor, Members of the Cabinet, Justices of the Supreme Court, and Judges of the Circuit Court, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit under the State; but the party convicted or acquitted shall, nevertheless, be liable to indict-

ment, trial and punishment according to law. All other officers who shall have been appointed to office by the Governor, and by and with the consent of the Senate, may be removed from office upon the recommendation of the Governor and consent of the Senate; but they shall, nevertheless, be liable to indictment, trial and punishment according to law, for any misdemeanor in office. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

§ 30. Laws making appropriation for the salaries of public officers and other current expenses of the State shall contain provisions on no other subject.

§ 31. The Legislature shall elect United States Senators in the manner prescribed by the Congress of the United States, and by this Constitution.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme Executive power of the State shall be vested in a chief magistrate, who shall be styled the Governor of Florida.

§ 2. The Governor shall be elected by the qualified electors, at the time and places of voting for the Members of the Legislature, and shall hold his office for four years from the time of his installment: *Provided*, that the term of the first Governor elected under this Constitution shall expire at the opening of the regular session of the Legislature of A. D. 1873, and until his successor shall be qualified. He shall take the oath of office prescribed for all State officers.

§ 3. No person shall be eligible to the office of Governor who is not a qualified elector, and who has not been nine years a citizen of the United States, and three years of the State of Florida next preceding the time of his election.

§ 4. The Governor shall be Commander-in-Chief of the military forces of the State, except when they shall be called into the service of the United States.

§ 5. He shall transact all Executive business with the officers of the Government, civil and military, and may require information, in writing, from the officers of the administrative department upon any subject relating to the duties of their respective offices.

§ 6. He shall see that the laws are faithfully executed.

§ 7. When any office, from any cause, shall become vacant, and no mode is provided by this Constitution, or by the laws of the State, for filling such vacancy, the Governor shall have the power to fill such

vacancy by granting a commission, which shall expire at the next election.

§ 8. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both Houses, when organized, the purpose for which they have been convened, and the Legislature then shall transact no legislative business except that for which they are especially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in session, except by the unanimous consent of both Houses.

§ 9. He shall communicate, by message, to the Legislature at each regular session the condition of the State, and recommend such measures as he may deem expedient.

§ 10. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have the power to adjourn the Legislature to such time as he may think proper, provided it is not beyond the time fixed for the meeting of the next Legislature.

§ 11. The Governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from the time of conviction for all offenses, except in cases of impeachment. Upon conviction for treason, he shall have power to suspend the execution of sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve; and if the Legislature shall fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the Governor may by his order direct. The Governor shall communicate to the Legislature, at the beginning of every session, every case of fine or forfeiture remitted or reprieved, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon or reprieve.

§ 12. The Governor, Justices of the Supreme Court and Attorney-General, or a major part of them, of whom the Governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments, and grant pardons after conviction in all cases except treason and impeachment, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

§ 13. The grants and commissions shall be in the name and under the authority of the State of Florida, sealed by the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

§ 14. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor, whose term of office and eligibility shall also be the same. He shall be the President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die or become incapable of performing the duties of his office, or be absent from the State, the President *pro tempore* of the Senate shall act as Governor until the office be filled or the disability cease.

§ 15. In the case of the impeachment of the Governor, or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease; but the Governor shall not, without the consent of the Legislature, be out of the State in time of war.

§ 16. The Governor may at any time require the opinion of the Justices of the Supreme Court as to the interpretation of any portion of this Constitution, or upon any point of law, and the Supreme Court shall render such opinion in writing.

§ 17. The Governor shall be assisted by a Cabinet of administrative officers, consisting of a Secretary of State, Attorney-General, Comptroller, Treasurer, Surveyor-General, Superintendent of Public Instruction, Adjutant-General and Commissioner of Immigration. Such officers shall be appointed by the Governor and confirmed by the Senate, and shall hold their offices the same time as the Governor, or until their successors shall be qualified.

§ 18. The Governor shall, by and with the consent of the Senate, appoint all commissioned officers of the State militia. •

§ 19. The Governor shall appoint, by and with the consent of the Senate, in each county, an Assessor of Taxes and Collector of Revenue, whose duties shall be prescribed by law, and who shall hold their offices for two years, and be subject to removal upon the recommendation of the Governor and consent of the Senate. The Governor shall appoint in each county a County Treasurer, County Surveyor, Superintendent of Common Schools, and five County Commissioners, each of whom shall hold his office for two years, and the duties of each shall be prescribed by law. Such officers shall be subject to removal by the Governor when in his judgment the public welfare will be advanced thereby: *Provided*, No officer shall be removed except for willful neglect of duty, or a violation of the criminal laws of the State, or for incompetency.

§ 20. The Governor and Cabinet shall constitute a Board of Commissioners of State Institutions, which Board shall have supervision

of all matters connected therewith, in such manner as shall be prescribed by law.

§ 21. The Governor shall have power, in cases of insurrection or rebellion, to suspend the writ of *habeas corpus* within the State.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court, Circuit Courts, County Courts, and Justices of the Peace.

§ 2. The style of all process shall be "The State of Florida," and all prosecutions shall be conducted in the name and by the authority of the same.

§ 3. The Supreme Court shall consist of a Chief Justice, and two Associate Justices, who shall hold their offices for life, or during good behavior. They shall be appointed by the Governor and confirmed by the Senate.

§ 4. The majority of the Justices of the Supreme Court shall constitute a quorum for the transaction of all business. The Supreme Court shall hold three terms each year in the Supreme Court-Room at the seat of government. Such terms shall commence on the second Tuesday of October, January and April, respectively.

§ 5. The Supreme Court shall have appellate jurisdiction in all cases in equity, also in all cases of law in which is involved the title to, or right of, possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand or the value of the property in controversy exceeds three hundred dollars, also, in all other civil cases not included in the general subdivisions of law and equity; also, in all questions of law alone; in all criminal cases in which the offenses charged amount to felony. The court shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have the power to issue writs of *habeas corpus* to any part of the State upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any Circuit Court in the State, or before any judge of said courts.

§ 6. The Supreme Court shall appoint a Clerk of the Supreme Court, who shall have his office at the capitol, and shall be librarian of the Supreme Court library. He shall hold his office until his successor is appointed and qualified.

§ 7. There shall be seven Circuit Judges appointed by the Governor and confirmed by the Senate, who shall hold their office for eight years. The State shall be divided into seven Judicial Districts, the limits of which are defined in this Constitution, and one Judge shall be assigned to each Circuit. Such Judge shall hold two terms of his court in each county within his Circuit, each year, at such times and places as shall be prescribed by law. The Chief Justice may, in his discretion, order a temporary exchange of Circuits by the respective Judges, or any Judge, to hold one or more terms in any other Circuit than that to which he is assigned. The Judge shall reside in the Circuit to which he is assigned.

§ 8. The Circuit Courts in the several Judicial Circuits shall have original jurisdiction in all cases of equity, also in all cases at law which involve the title or the right of possession to, or the possession of, or the boundaries of, real property; of the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of property in controversy exceeds three hundred dollars, and of the action of forcible entry and unlawful detainer, and also in all criminal cases amounting to felony. They shall have final appellate jurisdiction in all civil cases arising in the County Court, in which the amount in controversy is one hundred dollars and upwards, and in all cases of misdemeanor. The Circuit Courts and the Judges thereof shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, and all other writs proper and necessary to the complete exercise of their jurisdiction, and also shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective Circuits.

§ 9. There shall be a County Court organized in each county. The Governor shall appoint a County Judge for each county, who shall be confirmed by the Senate, and such Judge shall hold his office for four years from the date of his commission, or until his successor is appointed and qualified.

§ 10. The County Court shall be a court of Oyer and Terminer.

§ 11. The County Court shall have jurisdiction of all misdemeanors and all civil cases, where the amount in controversy does not exceed three hundred dollars; and its jurisdiction shall be final in all civil cases where the amount in controversy does not exceed one hundred dollars; but in no case shall the County Court have jurisdiction when the title or boundaries of real estate is in controversy, or where the jurisdiction will conflict with that of the several courts of records; but they may have co-extensive jurisdiction with the Circuit Court in cases of forcible entry and unlawful detention of real estate, subject to appeal to the Circuit Court. The County Court shall have full

surrogate or probate powers, but subject to appeal. Provision shall be made by law for all other powers, duties and responsibilities of the County Courts and Judges. There shall be a regular trial term of the County Courts six times in each year, at such times and places as may be prescribed by law.

§ 12. Grand and petit jurors shall be taken from the registered voters of the respective counties.

§ 13. In all trials, civil and criminal, in the Circuit and County Courts, the evidence shall be reduced to writing by the Clerk of the Court or his deputy under the control of the Court; and every witness, after his examination shall have closed, shall be at liberty to correct the evidence he has given, and afterward shall sign the same; such evidence shall be filed in the office of the Clerk with the papers in the case.

§ 14. All pleas shall be sworn to either by the parties or their attorneys.

§ 15. The Governor shall appoint as many Justices of the Peace as he may deem necessary. Justices of the Peace shall have criminal jurisdiction and civil jurisdiction not to exceed fifty dollars, but this shall not extend to the trial of any person for misdemeanor or crime. The duties of Justices of the Peace shall be fixed by law. Justices of the Peace shall hold their offices during good behavior, subject to removal by the Governor at his own discretion.

§ 16. The Legislature may establish courts, for municipal purposes only, in incorporated towns and cities. All laws for the organization or government of municipal courts shall be general in their provisions, and be equally applicable to the municipal courts of all incorporated towns and cities.

§ 17. Any civil cause may be tried before a practicing attorney as referee, upon the application of the parties, and an order from the court in whose jurisdiction the case may be, authorizing such trial and appointing such referee. Such referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the Clerk, and such cause shall be subject to an appeal in the manner prescribed by law.

§ 18. No other courts than those herein specified shall be organized in this State.

§ 19. The Governor, by and with the advice and consent of the Senate, shall appoint a State Attorney in each Judicial Circuit, whose duties shall be prescribed by law. He shall hold his office for four years from the date of his commission, and until his successor shall be appointed and qualified. The Governor, by and with the advice

and consent of the Senate, shall appoint in each county a Sheriff and Clerk of the Circuit Court, who shall also be Clerk of the County Court and Board of County Commissioners, Recorder, and ex officio Auditor of the county, each of whom shall hold his office for four years. Their duties shall be prescribed by law.

§ 20. A Constable shall be elected by the registered voters in each county for every two hundred registered voters; but each county shall be entitled to at least two Constables; and no county shall have more than twelve Constables. They shall perform such duties and under such instructions as shall be prescribed by law.

§ 21. Attorneys at law who have been admitted to practice in any court of record in any State of the Union, or to any United States court, shall be admitted to practice in any court of this State, on producing evidence of having been so admitted.

ARTICLE VII.

ADMINISTRATIVE DEPARTMENT.

SECTION 1. There shall be a Cabinet of administrative officers, consisting of a Secretary of State, Attorney-General, Comptroller, Treasurer, Surveyor-General, Superintendent of Public Instruction, Adjutant-General, and Commissioner of Immigration, who shall assist the Governor in the performance of his duties.

§ 2. The Secretary of State shall keep the records of official acts of the Legislature and Executive Department of the government, and shall, when required, lay the same and all matters relative thereto before either branch of the Legislature, and shall be the custodian of the Great Seal of the State.

§ 3. The Attorney-General shall be the legal adviser of the Governor and of each of the Cabinet officers, and shall perform such other legal duties as the Governor may direct, or as may be provided by law. He shall be Reporter for the Supreme Court.

§ 4. The Treasurer shall receive and keep all funds, bonds or other securities in such manner as may be provided by law, and shall disburse no funds, bonds or other securities except upon the order of the Comptroller, countersigned by the Governor, in such manner as shall be prescribed by law.

§ 5. The duties of the Comptroller shall be prescribed by law.

§ 6. The Surveyor-General shall have the administrative supervision of all matters pertaining to the public lands, under such regulations as shall be prescribed by law.

§ 7. The Superintendent of Public Instruction shall have the administrative supervision of all matters pertaining to public instruction; the supervision of buildings devoted to educational purposes, and the libraries belonging to the university and common schools. He shall organize a Historical Bureau for the purposes of accumulating such matter and information as may be necessary for compiling and perfecting the history of the State. He shall also establish a Cabinet of minerals and other natural productions.

§ 8. The Adjutant-General shall, under the orders of the Governor, have the administrative supervision of the Military Department and the State prison, and of the Quarantine of the coast, in such manner as shall be prescribed by law.

§ 9. The Commissioner of Immigration shall organize a bureau of immigration for the purposes of furnishing information, and for the encouragement of immigration. The office of Commissioner of Immigration shall expire at the end of fifteen years from the ratification of this Constitution, but the Legislature shall have the power to continue it by law.

§ 10. Each officer of the Cabinet shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the Governor at the beginning of each regular session of the Legislature, or whenever the Governor shall require it. Such reports shall be laid before the Legislature by the Governor, at the beginning of each regular session thereof. Either House of the Legislature may, at any time, call upon any Cabinet officer for any information required by it.

ARTICLE VIII.

EDUCATION.

SECTION 1. It is the paramount duty of the State to make ample provision for the education of all the children residing within its borders, without distinction or preference.

§ 2. The Legislature shall provide a uniform system of common schools, and a university, and shall provide for the liberal maintenance of the same. Instruction in them shall be free.

§ 3. There shall be a Superintendent of Public Instruction, whose term of office shall be four years, and until the appointment and qualification of his successor. He shall have general supervision of the educational interests of the State. His duties shall be prescribed by law.

§ 4. The common school fund, the interest of which shall be ex-

clusively applied to the support and maintenance of common schools, and purchase of suitable libraries and apparatus therefor, shall be derived from the following sources: The proceeds of all lands that have been or may hereafter be granted to the State by the United States for educational purposes; donations by individuals for educational purposes; appropriations by the State; the proceeds of lands or other property which may accrue to the State by escheat or forfeiture; the proceeds of all property granted to the State, when the purpose of such grant shall not be specified; all moneys which may be paid as an exemption from military duty; all fines collected under the penal laws of this State; such portion of the per capita tax as may be prescribed by law for educational purposes; twenty-five per centum of the sales of public lands which are now or which hereafter may be owned by the State.

§ 5. A special tax of not less than one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of common schools.

§ 6. The principal of the common school fund shall remain sacred and inviolate.

§ 7. Provision shall be made by law for the distribution of the common school fund among the several counties in the State, in proportion to the number of children residing therein, between the ages of four and twenty-one years.

§ 8. Each county shall be required to raise annually, by tax, for the support of common schools therein, a sum not less than one-half of the amount apportioned to each county for that year from the income of the common school fund. Any school district neglecting to establish and maintain for at least three months in each year such school or schools as may be provided by law for such district, shall forfeit its portion of the common school fund during such neglect.

§ 9. The Superintendent of Public Instruction, Secretary of State and Attorney-General, shall constitute a body corporate, to be known as the Board of Education of Florida. The Superintendent of Public Instruction shall be the President thereof. The duties of the Board of Education shall be prescribed by the Legislature.

ARTICLE IX.

HOMESTEAD.

SECTION 1. A homestead, to the extent of 160 acres of land, or the half of one acre, within the limits of any incorporated city or town, owned by the head of a family residing in this State, together with

\$1,000 worth of personal property, and the improvements on the real estate, shall be exempted from forced sale under any process of law, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon, or for house, field or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner.

§ 2. In addition to the exemption provided for in the first section of this article, there shall be and remain exempt from sale, by any legal process in the State, to the head of a family residing in this State, such property as he or she may select, to the amount of \$1,000; said exemption in this section shall only prevent the sale of property in cases where the debt was contracted, liability incurred, or judgment obtained before the 10th day of May, A. D. 1865. Nothing herein contained shall be so construed as to exempt any property from sale for payment of the purchase-money of the same, or for the payment of taxes or labor.

§ 3. The exemption provided for in sections one and two of this article shall accrue to the heirs of the party having enjoyed or taken the benefit of such exemption, and the exemption provided for in section one of this article shall apply to all debts, except as specified in said section, no matter when or where the debt was contracted or liability incurred.

ARTICLE X.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be provided by law.

§ 2. A State prison shall be established and maintained in such manner, as may be fixed by law. Provision may be made by law for the establishment and maintenance of a House of Refuge for juvenile offenders, and the Legislature shall have power to establish a Home and Work-House for common vagrants.

§ 3. The respective counties of the State shall provide in the manner fixed by law for those of the inhabitants who, by reason of age, infirmity, or misfortunes, may have claims upon the aid and sympathy of society.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intentions to become citizens thereof, shall constitute the militia of the State; but no male citizen, of whatever religious creed or opinion, shall be exempt from military duty, except upon such conditions as may be prescribed by law.

§ 2. The Legislature shall provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe keeping of the public arms, and for a guard for the State Prison.

§ 3. The Adjutant-General shall have the grade of Major-General. The Governor, by and with the consent of the Senate, shall appoint two Major Generals and four Brigadier Generals of militia. They shall take rank according to the date of their commissions. The officers and soldiers of the State militia, when uniformed, shall wear the uniform prescribed for the United States army.

§ 4. The Governor shall have power to call out the militia to preserve the public peace, to execute the laws of the State, and to suppress insurrection or repel invasion.

ARTICLE XII.

TAXATION AND FINANCE.

SECTION 1. The Legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempted by law, for municipal, educational, literary, scientific, religious or charitable purposes.

§ 2. The Legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.

§ 3. No tax shall be levied, except in pursuance of law.

§ 4. No moneys shall be drawn from the treasury, except in pursuance of appropriation made by law.

§ 5. An accurate statement of the receipts and expenditures of the public moneys shall be published with the laws of each regular session of the Legislature.

§ 6. The Legislature shall authorize the several counties and incorporated towns in the State to impose taxes for county and corporation purposes, and for no other purpose, and all property shall be taxed upon the principle established for State taxation. The Legislature may also provide for levying a special capitation tax and tax on licenses. But the capitation tax shall not exceed one dollar per annum for all purposes, either for State, county or municipal taxes.

§ 7. The Legislature shall have power to provide for issuing State bonds bearing interest, for securing the debt of the State, and for the erection of State buildings, support of State institutions, and perfecting public works.

§ 8. No tax shall be levied upon persons for the benefit of any chartered company of the State, or for paying the interest on any bonds issued by said chartered companies, or by counties, or by corporations, for the above-mentioned purposes.

ARTICLE XIII.

CENSUS AND APPORTIONMENT.

SECTION 1. The Legislature shall in the year 1875, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State, and they shall then proceed to apportion the representation among the different counties, giving to each county one Representative at large, and one additional to every 1,000 registered voters therein, but no county shall be entitled to more than four Representatives.

§ 2. The Legislature shall, also, after every such enumeration, proceed to fix by law the number of Senators which shall constitute the Senate of Florida, and which shall never be less than one-fourth, nor more than one-half of the whole number of the Assembly. When any Senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and all counties shall remain as now organized, unless changed by a two-third vote of both Houses of the Legislature.

ARTICLE XIV.

SUFFRAGE AND ELIGIBILITY.

SECTION 1. Every male person of the age of twenty-one years and upward, of whatever race, color, nationality or previous condition, or who shall, at the time of offering to vote, be a citizen of the United

States, or who shall have declared his intentions to become such in conformity to the laws of the United States, and who shall have resided and had his habitation, domicile, home and place of permanent abode in Florida for one year, and in the county for six months, next preceding the election at which he shall offer to vote, shall in such county be deemed a qualified elector at all elections under this Constitution. Every elector shall, at the time of his registration, take and subscribe to the following oath: "I, —, do solemnly swear that I will support, protect and defend the Constitution and government of the United States, and the Constitution and government of the State of Florida, against all enemies, foreign or domestic; that I will bear true faith, loyalty and allegiance to the same, any ordinances or resolution of any State Convention or Legislature to the contrary notwithstanding: so help me God."

§ 2. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of felony be qualified to vote at any election unless restored to civil rights.

§ 3. At any election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this Constitution, he shall present to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention, otherwise he shall not be allowed to vote; and any naturalized citizen offering to vote shall produce, before said persons lawfully authorized to conduct and supervise the election, his certificate of naturalization, or a duly sealed and certified copy thereof, otherwise he shall not be permitted to vote.

§ 4. The Legislature shall have power and shall enact the necessary laws to exclude from every office of honor, power, trust or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make or send or accept a challenge to fight, or who shall be a second to either party, or be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

§ 5. In all elections by the Legislature, the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

§ 6. The Legislature at its first session after the ratification of this Constitution shall, by law, provide for the registration, by the Clerk of the Circuit Court in each county, of all the legally qualified voters in such county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

§ 7. The Legislature shall enact laws requiring educational qualifications for electors after the year one thousand eight hundred and eighty, but no such laws shall be made applicable to any elector who may have registered or voted at any election previous thereto.

ARTICLE XV.

SCHEDULE.

SECTION 1. That all ordinances and resolutions heretofore passed by any Convention of the people, and all acts and resolutions of the Legislature conflicting or inconsistent with the Constitution of the United States and the statutes thereof, and with this Constitution, and in derogation of the existence or position of the State as one of the States of the United States of America, are hereby declared null and void, and of no effect.

§ 2. That all acts and resolutions of the General Assembly, and all official acts of the civil officers of the State, not inconsistent with the provisions of the Constitution and statutes of the United States, or with this Constitution, or with any ordinance or resolution adopted by this Convention, and which have not been and are not by this Constitution annulled, are in force, and shall be considered and esteemed as the laws of the State until such acts or resolutions shall be repealed by the Legislature of the State or this Convention.

§ 3. All laws of the State passed by the so-called General Assembly since the 10th day of January, A. D. 1861, not conflicting with the word or spirit of the Constitution and laws of the United States, or with this Constitution, shall be valid. All writs, acts, proceedings, judgments and decrees of the so-called courts of the State, where actual service was made on the defendant; all executions and sales made thereunder, and all acts, orders, and proceedings of the Judges of Probate, and of executors, administrators, guardians, and trustees, provided they were in conformity with the laws then in force, and did not conflict with the Constitution and laws of the United States and this Constitution, shall be valid. The sales of the property or effects of deceased persons shall not prevent the widow from claiming said property in kind, in whosoever hands the same may be found, when the sale had not been made for the purpose of paying the debts of the deceased, and where other than lawful money of the United States was obtained for said property. Nothing herein contained shall be so construed as to make any one who, as an officer of any court, or who acted under the authority of any court, individually liable, provided they acted strictly in accordance with what was then considered the law

of the State, and not conflicting with the Constitution and laws of the United States. All fines, penalties, forfeitures, obligations and escheats, heretofore accruing to the State of Florida, shall continue to accrue to the use of the State. All recognizances heretofore taken shall remain valid, and all bonds executed to the Governor of the State of Florida, either before or since the 10th day of January, A. D. 1861, or to any other officer of the State in his official capacity, shall be of full force and virtue for the uses therein respectively expressed, and may be sued for and recovered accordingly, unless they were contrary to the laws of the United States or to this Constitution, or to any ordinance or resolution adopted by the Convention; also, all criminal prosecutions which have arisen may be prosecuted to judgment and execution in the name of the State. All actions at law or suits in Chancery, or any proceedings pending in the courts of this State either prior to or subsequent to the 10th day of January, A. D. 1861, shall continue, in all respects, valid, and may be prosecuted to judgment and decree. All judgments and decrees rendered in civil causes in any of the courts of the State during the period of time above specified are hereby declared of full force, validity and effect: *Provided*, That unless otherwise provided in this Constitution the statute of limitation shall not be pleaded upon any claim in the hands of any person for the period of time between the 10th day of January A. D. 1861, and the 25th day of October, A. D. 1865, whether proceedings of law had been commenced before the 25th day of October, 1865, or not: *Provided, further*, That all claims of widows, minors and decedents, which were not barred by the statutes of this State on the 10th day of January, A. D. 1861, shall be considered good and valid for the period of two years from the ratification of this Constitution.

§ 4. That State treasury notes, all bonds issued, and all other liabilities contracted by the State of Florida or any county or city thereof, on and after the 10th day of January, A. D. 1861, and before the 25th day of October, A. D. 1865, except such liabilities as may be due to the seminary or school fund, be and are declared null and void, and the Legislature shall have no power to provide for the payment of the same or any part thereof; but this shall not be construed so as to invalidate any authorized liabilities of the State, contracted prior to the 10th day of January, A. D. 1861, or subsequent to the 25th day of October, A. D. 1865.

§ 5. No money shall ever be appropriated by this State to re-imburse purchasers of United States land who purchased the same of the State of Florida.

§ 6. All proceedings, decisions or actions accomplished by civil or military officers, acting under authority of the United States, subse-

quent to the 10th day of January, 1861, and prior to the final restoration of the State to the Government of the United States, are hereby declared valid, and shall not be subject to adjudication in the courts of this State; nor shall any person, acting in the capacity of a soldier or officer of the United States, civil or military, be subject to arrest for any act performed by him, pursuant to authorized instructions from his superior officers during the period of time above designated.

§ 7. That in all cases where judgments have been obtained against citizens of the State after the 10th day of January, 1861, previous to the 25th day of October, 1865, and where actual service was not made on the person of any defendant, such defendant not served with process may appear in court within one year after the adoption of this Constitution, and make oath that injustice has been done and that he or she has a good and valid defense, stating the defense, and upon making such oath, and filing said defense, the proceedings on the judgment shall cease until the defense is heard.

ARTICLE XVI.

MISCELLANEOUS.

SECTION 1. Any person debarred from holding office in the State of Florida by the third section of the Fourteenth article of the proposed amendment to the Constitution of the United States, which is as follows: "No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability," is hereby debarred from holding office in this State: *Provided*, That whenever such disability from holding office shall be removed from any person by the Congress of the United States, the removal of such disability shall also apply to this State, and such person shall be restored in all respects to the rights of citizenship as herein provided for electors.

§ 2. Any person elected to the Senate of the United States by the Legislature of this State, or any person elected by the people, or appointed to office by the Governor of the State, or by any officer of the State, under the provisions of the Constitution adopted by the Con-

vention of the people, convened on the 25th day of October, 1865, shall not be empowered to hold such office after the same position or office shall have been filled by election or appointment under the provisions of this Constitution: *Provided*, That all officers holding office under the provisions of the Constitution adopted the 25th day of October, A. D. 1865, and not provided for in this Constitution, shall continue to hold their respective offices, and discharge the duties thereof, until the Governor shall, by his proclamation, declare such offices vacant.

§ 3. The several Judicial Circuits of the Circuit Courts shall be as follows: The first Judicial Circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington and Jackson; the second Judicial Circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla and Jefferson; the third Judicial Circuit shall be composed of the counties of Madison, Taylor, Lafayette, Hamilton, Suwannee and Columbia; the fourth Judicial Circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay and St. John's; the fifth Judicial Circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion, and Sumpter; the sixth Judicial Circuit shall be composed of the counties of Hernando, Hillsborough, Manatee, Polk and Monroe; the seventh Judicial Circuit shall be composed of the counties of Volusia, Brevard, Orange and Dade.

§ 4. The salary of the Governor of the State shall be five thousand dollars per annum; that of the Chief Justice shall be four thousand five hundred dollars; that of each Associate Justice shall be four thousand dollars; that of each Judge of the Circuit Court shall be three thousand five hundred dollars; that of the Lieutenant-Governor shall be two thousand five hundred dollars; that of each Cabinet officer shall be three thousand dollars; the pay of the members of the Senate and House of Representatives shall be five hundred dollars per annum, and in addition thereto ten cents per mile for each mile travelled from their respective places of residence to the capital, and the same to return; but such distances shall be estimated by the shortest general thoroughfare. All other officers of the State shall be paid by fees, or per diem, fixed by law.

§ 5. The Legislature shall appropriate two thousand dollars each year for the purchase of such books for the Supreme Court library as the said court shall direct.

§ 6. The salary of each officer shall be payable quarterly, upon his own requisition.

§ 7. The tribe of Indians located in the southern portion of the State, and known as the Seminole Indians, shall be entitled to one

member in each House of the Legislature. Such member shall have all the rights, privileges and remuneration as other members of the Legislature. Such members shall be elected by the members of their tribe, in the manner prescribed for all elections by this Constitution. The tribe shall be represented only by a member of the same, and in no case by a white man: *Provided*, That the Representative of the Seminole Indians shall not be a bar to the representation of any county by the citizens thereof.

§ 8. The Legislature may at any time impose such tax on the Indians as it may deem proper; and such imposition of tax shall constitute the Indians citizens, and they shall thenceforward be entitled to all the privileges of other citizens, and thereafter be barred of special representation.

§ 9. In addition to other crimes and misdemeanors for which an officer may be impeached and tried, shall be included drunkenness and other dissipations, incompetency, malfeasance in office, gambling, or any conduct detrimental to good morals, shall be considered sufficient cause for impeachment and conviction. Any officer when impeached by the Assembly shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquittal by the Senate. But any officer so impeached and in arrest may demand his trial by the Senate within one year from the date of his impeachment.

§ 10. The following shall be the oath of office for each officer in the State, including members of the Legislature: "I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and of the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty and allegiance to the same, and that I am entitled to hold office under this Constitution. That I will well and faithfully perform all the duties of the office of ———, on which I am about to enter: so help me God."

§ 11. The Legislature may provide for the donation of the public lands to actual settlers. But such donation shall not exceed one hundred and sixty acres of land to any one person.

§ 12. All county officers shall hold their respective offices at the county seats of their counties.

§ 13. The Legislature shall provide for the speedy publication of all statutes and laws of a general nature. All decisions of the Supreme Court and all laws and judicial decisions shall be free for publication by any person. But no judgment of the Supreme Court shall take effect and be operative until the opinion of the Court in such case shall be filed with the Clerk of said Court.

§ 14. The Legislature shall not create any office the term of which shall be longer than four years.

§ 15. The Governor, Cabinet and Supreme Court shall keep their offices at the Seat of Government. But in case of invasion or violent epidemics the Governor may direct that the offices of the government shall be removed temporarily to some other place. The session of the Legislature may be adjourned for the same cause to some other place; but in such case of removal all the Departments of the government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.

§ 16. A plurality of votes given at any election by the people shall constitute a choice, when not otherwise provided by this Constitution.

§ 17. The term of State officers elected at the first election under this Constitution, not otherwise provided for, shall continue until the first Tuesday of January, A. D. 1873, and until the installation of their successors, excepting the members of the Legislature.

§ 18. Each county and incorporated city shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law. Each county shall make provision for building a court-house and jail, and for keeping the same in good repair.

§ 19. If at the meeting of the Senate at any session, the Lieutenant-Governor has not been qualified, or is not present, the Senate shall elect one of its members as temporary President before proceeding to other business.

§ 20. The Legislature shall, at its first session, adopt a seal for the State, and such seal shall be of the size of the American silver dollar. But said seal shall not again be changed after its adoption by the Legislature; and the Governor shall, by his proclamation, announce that said seal has become the Great Seal of the State.¹

§ 21. The Governor, the Lieutenant-Governor, and all the State officers elected by the people shall be installed on the first day of the meeting of the Legislature, and immediately assume the duties of their respective offices.

§ 22. The Governor and Lieutenant-Governor shall have been, before their election to office, nine years citizens of the United States and three years citizens of the State. All other officers shall have been one year citizens of the State, and six months citizens of the

¹ By a joint resolution of the Legislature, passed August 6, 1868, it was ordered: "That a seal of the size of the American silver dollar, having in the centre thereof a view of the sun's rays over a highland in the distance; a cocoa tree, a steamboat on water, and an Indian female scattering flowers in the foreground, encircled by the words: 'Great Seal of the State of Florida; In God we Trust,' be and the same is hereby adopted as the Great Seal of the State of Florida; and immediately after such seal shall be prepared for use, the Governor shall issue his proclamation announcing that the same has become the Great Seal of the State."

county from which they are elected or appointed. No person shall be eligible to any office unless he be a registered voter.

§ 23. The Governor or any State officer is hereby prohibited from giving certificates of election or other credentials, to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been two years a citizen of the State, and nine years a citizen of the United States, and a registered voter.

§ 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such corporation be for religious, educational, or charitable purposes.

§ 25. All bills, bonds, notes, or evidences of debt outstanding and unpaid, given for or in consideration of bonds or treasury notes of the so-called Confederate States, or notes and bonds of this State paid and redeemable in the bonds and notes of the Confederate States, are hereby declared null and void, and no action shall be maintained thereon in the courts of this State.

§ 26. It shall be the duty of the courts to consider that there is a failure of consideration, and it shall be so held by the courts of this State, upon all deeds or bills of sale given for slaves with covenant or warranty of title or soundness, or both; upon all bonds, notes or other evidences of debt, given for or in consideration of slaves, which are now outstanding and unpaid, and no action shall be maintained thereon; and all judgments and decrees rendered in any of the courts of this State since the tenth day of January, A. D. 1861, upon all deeds or bills of sale, or upon any bond, bill, note, or other evidence of debt based upon the sale or purchase of slaves, are hereby declared set aside, and the plea of failure of consideration shall be held a good defense in all actions to said suit; and when money was due previous to the tenth day of January, 1861, and slaves were given in consideration for such money, there shall be deemed a failure of consideration for the debt: *Provided*, That settlements and compromises made by the parties thereto shall be respected.

§ 27. All persons who, as alien enemies under the sequestration act of the so-called Confederate Congress, and now resident of the State, had property sequestered and sold by any person acting under a law of the so-called Confederate States, or the State of Florida, subsequent to the tenth day of January, A. D. 1861, and prior to the first day of May, 1865, shall be empowered to file a bill in equity in the Circuit Court of the State, and shall be entitled to obtain judgment against the State for all damages sustained by said sale and detention of property. The Court shall estimate the damages upon the assessed valuation of the property in question in the year A. D. 1860, with interest

at six per cent from the time the owner was deprived of the same. But all judgments against the State shall be paid only in certificates of indebtedness redeemable in State lands. Said certificates shall be issued by the Governor, countersigned by the Secretary of State and by the Comptroller upon the decree of the Court. Oral testimony shall be sufficient to establish a sale having been made.

§ 28. There shall be no civil or political distinction in this State on account of race, color, or previous condition of servitude, and the Legislature shall have no power to prohibit by law any class of persons on account of race, color, or previous condition of servitude, to vote or hold any office beyond the conditions prescribed by this Constitution.

§ 29. The apportionment for the Assembly shall be as follows: Escambia, two; Santa Rosa, one; Walton, one; Holmes, one; Washington, one; Jackson, three; Calhoun, one; Gadsden, two; Franklin, one; Liberty, one; Wakulla, one; Leon, four; Jefferson, three; Madison, two; Taylor, one; Hamilton, one; Suwannee, one; Lafayette, one; Alachua, two; Columbia, two; Baker, one; Bradford, one; Nassau, one; Duval, two; Clay, one; St. John's, one; Putnam, one; Marion, two; Levy, one; Volusia, one; Orange, one; Brevard, one; Dade, one; Hillsborough, one; Hernando, one; Sumpter, one; Polk, one; Manatee, one; and Monroe, one. There shall be twenty-four Senatorial Districts, which shall be as follows, and shall be known by their respective numbers, from one to twenty-four inclusive. The first Senatorial District shall be composed of Escambia county, the second of Santa Rosa and Walton, the third of Jackson, the fourth of Holmes and Washington, the fifth of Calhoun and Franklin, the sixth of Gadsden, the seventh of Liberty and Wakulla, the eighth of Leon, the ninth of Jefferson, the tenth of Madison, the eleventh of Hamilton and Suwannee, the twelfth of Lafayette and Taylor, the thirteenth of Alachua and Levy, the fourteenth of Columbia, the fifteenth of Bradford and Clay, the sixteenth of Baker and Nassau, the seventeenth of St. John's and Putnam, the eighteenth of Duval, the nineteenth of Marion, the twentieth of Volusia and Orange, the twenty-first of Dade and Brevard, the twenty-second of Hillsborough and Hernando, the twenty-third of Sumpter and Polk, the twenty-fourth of Manatee and Monroe; and each Senatorial District shall be entitled to one Senator.

§ 30. No person shall ever be appointed a Judge of the Supreme or Circuit Court who is not twenty-five years of age, and a practicing attorney in this State.

§ 31. The Legislature shall, as soon as convenient, adopt a State emblem, having the design of the Great Seal of the State impressed upon a white ground of six feet six inches fly, and six feet deep.

ARTICLE XVII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislature, and if the same shall be agreed upon by a two-thirds vote of all the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice; and if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a two-thirds vote of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature may prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become a part of the Constitution.

§ 2. If at any time the Legislature, by a vote of a majority of all the members elected to each of the two Houses, shall determine that it is necessary to cause a revision of this entire Constitution, such determination shall be entered on their respective journals, with the yeas and nays thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the Legislature next chosen aforesaid, such proposed revision shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to recommend to the electors of the next election for members of the Legislature to vote for or against a Convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a Convention, the Legislature shall, at its next session, provide by law for a Convention to be holden within six months after the passage of such law, and such Convention shall consist of a number of members not less than both branches of the Legislature. In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office, or on any question.

Done in open Convention. In witness whereof, we, the undersigned delegates, representing the people of Florida, in Convention assembled, do hereunto affix our names this the twenty-fifth day

of February, Anno Domini one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-second, and the Secretary doth countersign the same.

HORATIO JENKINS, JR., *President.*

S. CONANT, *Secretary.*

Countersigned by —

George J. Alden,
Lyman W. Rowley,
J. W. Butler,
John L. Campbell,
W. J. Purman,
L. C. Armistead,
E. Fortune,
H. Bryan,
M. L. Stearns,
J. E. A. Davidson,
Frederick Hill,
J. W. Childs,
T. W. Osborn,
Joseph E. Oats,
Richard Wells,

Green Davidson,
O. B. Armstrong,
John Wyatt,
John W. Powell,
Robert Meacham,
Anthony Mills,
A. G. Bass,
Roland T. Rombauer,
Major Johnson,
William R. Cone,
Thomas Urquhart,
Andrew Shuler,
J. N. Krimminger,
William K. Cessna,
Josiah T. Walls,

S. B. Conover,
Auburn Erwin,
B. McRae,
A. B. Hart,
N. C. Dennett,
William Bradwell,
J. C. Gibbs,
J. H. Goss,
A. Chandler,
W. Rogers,
Samuel J. Pearce,
C. R. Mobley,
David Mizell,
E. L. Ware.



GEORGIA.

The territory now embraced in Georgia, was included in the Carolina Charter of 1663, which, after various changes in form of government, was finally surrendered to the Crown in 1729.

A plan for settling a colony of poor people, from Great Britain and Ireland, between the Savannah and Altamaha rivers, having been formed in England, as a measure of benevolence to those relieved, and of protection to the Carolinas, a Charter was granted June 9, 1732, by George II, to a company consisting of Lord Percival and twenty others, as Trustees for executing this purpose. This scheme of benevolence was soon afterward extended to persecuted Protestants of all countries, and means were provided for defraying the expenses of removal and first settlement. In 1733 the first emigrants were established at Savannah; but a short experience convinced the trustees that a more industrious and enterprising class of settlers would be needed, and, accordingly, in 1735 they resolved to receive also such as had not been rendered objects of compassion by persecution or poverty, and to give fifty acres of land to each. This induced the emigration of a more bold and hardy race of settlers from Germany and Scotland. The trustees in England framed a system of regulations relating to the titles of lands, the inheritance of estates, military service and other subjects, which, although well intended, proved signally unsuited to a new colony, and especially so to one largely composed, as theirs at first was, of the idle and improvident. The conditions imposed were deemed odious, and the restrictions upon trade oppressive. The hostility of the Spaniards of Florida further retarded the growth of the colony. At length, wearied with their own efforts, and with the complaints of the people, the trustees surrendered their Charter to the Crown June 20, 1751, and the colony was thenceforth governed as a Royal province. Under this Charter it was bounded by the Savannah river on the north, and the Altamaha on the south, and westerly "from the head of the said rivers respectively in direct lines to the South sea." By a Royal proclamation, dated October 7, 1763, the lands between the Altamaha and the St. Mary's rivers were annexed to the Province.

In October, 1754, the people were granted legislative powers similar to those of other Royal governments in America, but several years passed before the colony began to recover from the discredit and embarrassments into which it had fallen.

The cessation of Indian hostilities, which had arisen toward the close of the French war, and especially the acquisition of Florida by Great Britain, tended to a rapid increase of the colony in wealth and prosperity. Commerce revived, agriculture flourished, and emigrants from Europe arrived in great numbers. In a commission to Governor James Wright, dated January 20, 1764, the boundaries of the colony were extended westward as far as British dominion was claimed, between the Floridas on the south and a line drawn west from the extreme source of the Savannah river on the north, which carried its jurisdiction to the Mississippi river. The extension of West Florida, however, in that year, somewhat reduced these limits, and, practically, the settled territory at the beginning of the Revolution did not much exceed a hundred and fifty miles in length from north to south, by thirty miles from east to west.

From her remote situation, the influence of Governor Wright, and other

causes, this colony did not take an early part in the Revolution. Yet a majority of the citizens sympathized with the measure, and on the 18th of January, 1775, a Provincial Congress met at Savannah, agreed upon non-intercourse with England until grievances should be redressed, resolved to encourage domestic industry and to dispense with luxuries; and bound themselves and their constituents to this Association until American wrongs should be redressed.

A Council of Safety was appointed June 22, and on the 4th of July, 1775, a Provincial Congress, more fully organized, and representing every parish and district, met at Savannah, and passed resolutions strongly approving the measures and recommendations of the Continental Congress, and appointing delegates to represent the colony in that body.

Beyond this, the people of Georgia did not then go, being restrained by dread of Indian hostilities and other causes; but on the 20th of January, 1776, the Provincial Congress again met, and it was resolved to cast their fortunes with the other colonies. Soon after, Governor Wright was arrested and paroled to his own house, but on the 11th of February he took refuge on a British man-of-war lying at the mouth of the Savannah river. Previous to this, troops had been raised for the common defense, and bills of credit issued, the redemption of which depended upon the success of these revolutionary measures.

On the 15th of April, 1776, the Provincial Congress, feeling the need of some broader basis of action, passed resolutions for the formation of a temporary government, by resolving itself into a Legislature, appointing a President, a Council of Safety of thirteen members, and judicial and executive officers. This was considered but a temporary expedient, "to continue for the present, and until the further order of Congress, or of this or any future Provincial Congress."

The Declaration of Independence in July made other and more substantial measures necessary, and, accordingly, the President issued a proclamation for an election to be held, early in September, of delegates to a Convention, which was to be held at Savannah, on Tuesday the 1st day of October following, when business of highest consequence to the government and welfare of the State would be opened for their consideration. The people were urged by circular letters to select upright and good men, whose action had proved their friendship to the cause of freedom, and whose depth of political judgment qualified them to frame a Constitution for the future government of the country. This Convention met at the time appointed, and after two or three short adjournments and the interruption of business of pressing necessity for putting the State in posture for defense, perfected their first organic law by a unanimous vote of the Convention, February 5, 1777.

The Royal government was subsequently, for a time, practically re-established in Georgia, and the Constitution continued only nominally in force, until the evacuation of the State by the British army, in July, 1783.

The first Constitution provided that no alteration should be made in it without petitions from a majority of the counties, the petitions from each county to be signed by a majority of voters in each county within the State. The Assembly was then to order a Convention to be called for that particular purpose, specifying the alterations to be made, according to the petitions preferred to the Assembly by the majority of the counties. It is scarcely necessary to add, that so difficult a proceeding was never carried into effect; and it may, with equal justice, be said that no American Constitution was ever devised which needed amendment more than this. While declaring that the Legislative, Executive and Judicial Departments should be kept distinct, it gave almost the entire con-

trol of the State to the Representatives of the people, without providing any of the checks and restraints which experience has shown to be so necessary for the just and uniform operation of a State government.

The Representatives were elected annually, usually ten from each county. One large county had fourteen; some smaller ones less, and the Port of Savannah four, to represent its trade. The Representatives elected from among their number a Governor, and an Executive Council, consisting of two from each county, one of whom from each county was to be always in attendance at the place where the Governor resided, by monthly rotation, unless otherwise arranged, but this was not to exclude other members from attending. The remaining Representatives were called *The House of Assembly*, and exercised the legislative power. Representatives were required to be of the Protestant religion and to be worth two hundred and fifty acres of land, or £250. Voters were required to be worth £10, or to be of some mechanical trade, and six months resident. Every voter failing to attend an election without a reasonable excuse was liable to a fine of £5. Continental Delegates were to be elected by the House of Assembly, and could sit, debate and vote in the House, of which they were deemed a part.

The Governor, with the advice of the Executive Council, was to attend to the Executive business of the State, but had no veto power and no voice in pardons, beyond a suspension of sentence until the House of Assembly should have time to act. He was eligible only one year in three; was to reside in such place as the House of Assembly should direct, and on entering upon his office took a solemn oath, promising that he would peaceably and quietly resign the government to which he was elected, at the period to which his continuance was limited by the Constitution.

The Executive Council voted by counties, and their President discharged the duties of the Governor in case of vacancy. Their legislative powers were limited to perusal and advice, after the second reading of bills in the House of Assembly. When not assembled for the consideration of laws, the Governor could attend and preside in the Executive Council.

The judicial power was vested in a Superior Court in each county, held by a Chief Justice, and three or more Justices residing in the county. The sessions were held in rotation in the different counties, and one Attorney was appointed for the State. Appeals in civil cases were to be referred to a jury, six of whom were selected by each party, and six taken indifferently from names in a box. From these eighteen the first twelve drawn, being present, were to serve as a special jury, and from their decision there could be no appeal. The jury was to judge of the law as well as of the fact, and were sworn to bring in a verdict according to the law, and their opinion of the evidence, provided it be not repugnant to justice, equity and conscience, and the rules of the Constitution, of which they were to be the judge. Captures by sea or land were to be tried in the county where they were brought in, and, after a second trial, might be appealed to the Continental Congress in certain cases. A Register of Probates was to be appointed in each county, and all civil officers were elected annually, excepting Registers of Probates and Justices of the Superior Court, who were appointed by the House of Assembly. Entails were forbidden, and the estates of persons dying intestate were to be divided under the rule established in the reign of Charles II, until changed by law. Clergymen were ineligible to the Legislature, and perfect freedom of religious opinion was guaranteed.

The ratification of the Federal Constitution by Georgia January 2, 1788, and the experience of over ten years under the first State Constitution, had suggested several amendments as necessary to adapt that instrument to the wants

of the State, under its new relations with the National Government, and to an even administration in time of peace.

The Legislature accordingly, on the 30th of January, 1788, resolved "that they would proceed to name three fit and discreet persons from each county, to be convened at Augusta by the Executive, as soon as may be after official information is received that nine States have adopted the Federal Constitution; and a majority of them shall proceed to take under consideration the alterations and amendments that are necessary to be made in the Constitution of this State, and to arrange, digest and alter the same in such manner as, in their judgment, will be most consistent with the interest and safety, and best secure the rights and liberties, of the citizens thereof."

This irregular exercise of legislative power passed unquestioned; the Convention met on the 4th of November, 1788, and, after "serious consideration and mature deliberation," reported a form, and on the 24th of November ordered this to be printed and submitted to the people for their consideration. The question of its adoption was to be decided by another body, composed of three persons from each county, chosen by the people on the first Tuesday of December, and who were to meet at Augusta on the 4th of January, 1789, "vested with full power, and for the sole purpose of adopting and ratifying or rejecting" the Constitution.

This second Convention met and proposed certain changes, which were, by order of the General Assembly, published, and the Governor instructed to call a third Convention to adopt the original plan, with or without all or any of the amendments recommended. This third Convention met May 4, 1789, and on the 6th adopted what is known as the second Constitution of Georgia. It took effect on the first Monday in October following.

This Constitution vested the legislative power in a Senate and House of Representatives, who together were styled the General Assembly. Senators were chosen by counties for three years, and all at the same time. In the election of Governor and most civil officers the House designated three names for each office, and from these the Senate elected one from the number thus designated. The Governor held for two years; could appoint his secretaries and militia officers, and might be allowed to appoint other officers. He enjoyed the pardoning power, except in impeachments and in cases of treason and murder, in which he could suspend execution of sentence until the General Assembly should have time to act. He had the veto power, subject to the approval of two-thirds of both Houses, and his executive powers generally were more carefully defined. The Executive Council was abolished, but the Judiciary system was but little changed, the General Assembly being authorized to effect certain modifications therein.

Recognizing the probability that the growth of the country might require future changes in the organic law, the fourth article provided that, at the general election in 1794, three persons from each county should be elected to represent them in Convention, for the purpose of taking into consideration the alterations necessary to be made in the Constitution. The time and place of meeting was to be fixed by the General Assembly, and, with the concurrence of two-thirds of the whole number, they might proceed to agree upon such alterations as they deemed proper.

The Convention required to be elected in 1794 assembled May 2d, 1795, and on the 6th adjourned, having made some amendments, which were adopted without submission.

A Convention was again held May 8, 1798, and on the 30th it agreed upon a new Constitution. The signing was announced by a salute of sixteen guns, and

general joy; and the new organic law went into effect on the first Monday of October of that year. With some amendments, it continued in force more than sixty years.

Under this Constitution each House was elected annually; one Senator from each county, and Representatives upon a basis of population, in which all the whites, and three-fifths of all people of color were to be counted, by a census taken once in seven years. A county with 3,000 was to have two Representatives; one of 7,000, three; and one of 12,000, four; but no county was to have less than one nor more than four.

The sessions of the General Assembly were annual until 1840, when they were changed to biennial, with a corresponding change in the term. In 1857, they were again changed to annual.

The Governor was elected for two years, by the General Assembly, until 1825, when his election was given directly to the qualified voters. A proposition to make this office elective, was offered in the Convention of 1798, and lost by a vote of eighteen to fifty. He had the power to reprieve, except in impeachments, and to pardon, except in cases of treason and murder.

The judiciary powers were vested in a Superior Court, and such inferior courts as the Legislature might establish. Subsequently a Supreme Court for the Correction of Errors, and Circuit Courts were established. Amendments might be made to the Constitution by the General Assembly, at two successive sessions, by a two-thirds vote, and publication at least six months before the election of members for the General Assembly last passing the same, without any direct submission to the electors, and, as decided in 1811, without requiring the signature of the Governor. The amendments made by the Legislature were numerous, affecting chiefly the judiciary system and the organization of the Legislature.

By an act passed December 24, 1832, an election was ordered to be held in April, for a Convention of delegates to assemble at the State capitol on the first Monday in May, "for the purpose of entering upon and consummating the great objects of their Convention, to wit: a reduction and equalization of the General Assembly." It was made a fundamental article, in the formation or amendment of the Constitution, that each county now organized or laid out, or which may hereafter be created by law, should be entitled to at least one Representative in the representative branch of the General Assembly. The Convention was held, but the amendments proposed were not ratified by the people. The Governor, in his message on the 6th of November, 1838, again called the attention of the Legislature to the importance of reducing the number of the Legislature, and of equalizing the representation. This measure had become the more pressing on account of the rapid increase of population in some sections of the State, on the removal of Indians from lands that had been ceded by them to the Government. An act was accordingly passed December 26, 1838, appointing an election to be held in April, and a Convention to meet in May, 1839, for the purpose chiefly of reducing the representation. This Convention met on the 6th of May, and adjourned on the 16th.

Its proceedings were submitted to the people, and rejected by a most decided vote of disapprobation. This second refusal of the people to sanction the acts of a Convention was attributed by the Governor to a prevalent belief, in both cases, that the amendments were intended for sectional and temporary party purposes. He expressed his regrets that the proceedings should have been liable to such decisive objections, as the amendments were regarded as indispensable, and he urged the Legislature to consider the subject with the view of finding

a remedy. No attempt was made after this to secure any amendment except by the Legislature, until the beginning of the great rebellion.

Georgia took an early part in the Secession movement of 1860-'61. The Legislature met November 8, 1860, and called a Convention by an act dated November 18. The Convention met January 17, 1861; declared the right of the State to secede, by a vote of 165 to 130, on the first day of its session, and on the 19th passed an Ordinance of Secession from the United States. The Convention also elected delegates to the Southern Congress at Montgomery, Alabama, and Commissioners to other slaveholding States, and on the 7th of March re-assembled to ratify the Confederate Constitution. Their proceedings were not submitted to a vote of the people.

Restrictions upon commercial intercourse with Georgia were removed by a proclamation of President Johnson, April 29, 1865, and on the 17th of June he appointed James Johnson as Provisional Governor. On the 13th of July Governor Johnson issued a proclamation, appointing the first Wednesday of October for the election of delegates to a Convention. This body met October 25th, and on the 30th repealed the so-called Ordinance of Secession of 1861, and on the 8th of November, 1868, agreed upon an amended Constitution. Slavery was declared abolished, "the Government of the United States having, as a war measure, proclaimed all slaves held or owned in this State emancipated from slavery, and having carried that proclamation into full practical effect: *Provided*, That acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, or waiver, or estoppel, of such claims for compensation of loss sustained by reason of the emancipation of his slaves, as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government."

The Reconstruction measures in Georgia in 1865, as in other Southern States, failed to meet the approval of Congress, and the governments established under them were, by an act passed July 19, 1867, declared not legal, and, if continued, to be subject, in all respects, to the military commanders of the respective districts, and to the paramount authority of Congress.

Under the Reconstruction acts of 1867, Georgia was included in the Fourth Military District. There were registered 96,333 white and 95,165 colored votes, and of these, 60,333 white and 24,750 colored voters failed to vote on the question of calling a Convention, showing that 36,000 white and 70,407 colored voters attended the elections. The majority voting having declared for a Convention, general orders were issued on the 19th of November, 1867, calling a Convention to revise the Constitution. This body met at Atlanta early in December, 1867, and on the 11th of March, 1868, it agreed upon the Constitution given in our text. It was submitted to the people at an election begun April 20, 1868, and received a majority of 17,699, out of 160,316 votes cast at the election. The Ordinance of Secession of 1861 was again declared null and void, on the 11th of March, 1868, and the Convention adjourned, subject to another call if deemed necessary within twelve months.

The Constitution having been declared adopted by official orders, dated May 11, 1868, returns were made to the President. The Legislature first elected, soon after assembling, proceeded to declare the seats of certain colored Representatives as vacant, and to adopt other measures indicating a wish to exclude colored persons from office. An act entitled "An act to promote the reconstruction of the State of Georgia" was accordingly passed by Congress, and approved December 22, 1869, which required the Governor to convene the General Assembly at Atlanta, on a day to be appointed by him. When assembled they were directed to proceed to perfect their organization in conformity with the Constitution and laws

of the United States, according to the provisions of this act. Each Senator and Representative was to take and subscribe an oath of past loyalty to the United States, unless relieved from disability as provided in the third section of Article XIV of Amendment. It was declared that the exclusion of any person from participating in these proceedings, upon the ground of race, color or previous condition of servitude, would be illegal and revolutionary. No person refusing to take the oath was to be admitted, and any one falsely taking the same was to be deemed guilty of perjury, and was to suffer the pains and penalties thereof, upon conviction in the Circuit Court of the United States for the district in Georgia where the offense might be committed. The ratification of the Fifteenth Article of Amendment to the Constitution of the United States was also required as a condition precedent to admission to representation in Congress. This requirement was complied with by both Houses on the 2d of February, 1870, by a vote of 25 to 9 in the Senate and of 75 to 29 in the House.

By "An act relating to the State of Georgia," passed by both Houses of Congress, without a division, on the 14th of July, 1870, upon the report of a Committee of Conference, and approved the next day by the President, it was declared that the State of Georgia, having complied with the Reconstruction acts of Congress, and having adopted the XIVth and XVth Articles of Amendment, was entitled to representation in Congress; but nothing in this act was to be construed to deprive the people of Georgia of the right to an election for members of the General Assembly, as provided for in the Constitution of that State, or to affect the term to which any officer had been appointed or any member of the General Assembly had been elected

CONSTITUTION OF GEORGIA 1868.

SUMMARY.

ARTICLES.

- I. Declaration of fundamental principles.
- II. Franchise and elections.
- III. Legislative.
- IV. Executive.
- V. Judiciary.
- VI. Education.
- VII. Homestead and exemption.
- VIII. Militia.
- IX. County officers.
- X. Seat of Government.
- XI. Laws of general operation.
- XII. Amendments to the Constitution.

PREAMBLE.

ARTICLE I. — *Declaration of Fundamental Principles.*

SECTIONS.

1. Protection to persons and property the duty of Government.
2. Persons who are citizens of the State — their rights not to be abridged — duty of General Assembly to enact laws for protecting every person.
3. No person to be unlawfully deprived of life, liberty or property.
4. Slavery forbidden.
5. Right of appeal to courts — of petition — of assembling.
6. Religious freedom — not to excuse acts of licentiousness, etc.
7. Rights of persons accused of crime — counsel — witnesses — speedy trial by jury.
8. Second trial for same offense not allowed, unless on motion of accused.
9. Freedom of speech and of the press.
10. Security against illegal seizures and searches.
11. Social status of citizens, not a subject of legislation.
12. No person to be molested for his opinions — no incapacity or advantage in consequence.
13. Writ of *habeas corpus*.
14. Right to bear arms — General Assembly may prescribe manner.
15. Punishment of frauds to be provided by law.
16. Excessive bail and fines — cruel punishments — persons under arrest not to be abused.
17. Contempt of court — power of punishment to be limited.
18. No imprisonment for debt.
19. Prosecutions for libel — truth may be given in evidence — jury to determine the law and the facts.
20. Private ways to be granted upon payment.
21. Penalties proportioned to offense.
22. Whipping prohibited as a punishment.
23. Lotteries, and sale of lottery tickets, forbidden.
24. Conviction not to work corruption of blood — forfeitures for treason limited.
25. Treason defined — how proved.
26. Laws to be general — not to be varied in any particular case without consent of all persons affected.

SECTIONS.

27. Power of taxation limited — to be exercised over whole State only by General Assembly — to be *ad valorem* and uniform.
28. Power of taxation may be granted to counties and municipal corporations.
29. Poll taxes limited — for educational purposes.
30. Mechanics' and laborers' Hens.
31. Legislative, executive and judicial departments distinct.
32. Unconstitutional laws void — to be so declared.
33. State to ever remain a member of American Union — paramount allegiance due to Constitution and Government of United States.

ARTICLE II. — *Franchise and Elections.*

1. Elections by the people to be by ballot.
2. Qualifications of electors — persons in military or naval service — oath.
3. Persons convicted of felony or larceny not eligible to office.
4. Non-accounting holders of public moneys not eligible to office.
5. Dueling to disqualify from voting or holding office — may be further punished.
6. Registration of electors — classes excluded.
7. Privilege of electors.
8. Sale of liquors on election days prohibited.
9. Election returns, how made.
10. Laws to be enacted for protection to electors.
11. Elections, when to be held.

ARTICLE III. — *Legislative.*

- I. I. Legislative power, how vested — election and return of members.
- II. Senators — term — classes — members of House — term — election, when held — may be changed by law.
- III. First meeting of General Assembly — annual meetings — quorum — limit of sessions.
- IV. Persons ineligible — members may not be elected to other officers during their term.
- V. Removal from district to vacate seat.
2. I. Present Senatorial Districts — new counties, how assigned — re-apportionment.
- II. Qualification of Senators.
- III. Presiding officer of Senate, how elected.
- IV. Senate to try impeachments — proceeding — judgment limited — may be tried by law.
3. I. House of Representatives — number — present apportionment.
- II. May be changed after each Federal census.
- III. Qualification of Representatives.
- IV. Presiding officer — style — election.
- V. House to have sole power of impeachment of persons who shall have been or may be in office.
- VI. Bills for revenue or appropriation to originate in House — Senate may amend.

SECTIONS

4. I. Powers of each House—may punish or expel members.
- II. Power to punish persons not members.
- III. Privilege of members—freedom of legislative debate.
- IV. Journal—yeas and nays—original journals.
- V. Passage of bills—to contain but one subject, and this to be expressed in title.
- VI. Signature of bills, ordinances and resolutions—when rejected not to be again offered at same session.
- VII. Adjournments—Governor may adjourn in case of disagreement as to time.
- VIII. Officers of the two Houses—pay to be fixed by law.
- IX. Yeas and nays where a two-third vote is required—votes on confirmation or rejection for office to be recorded.
- X. Oaths of Senators and Representatives.
5. I. General Assembly may make laws consistent with Constitution of State and United States.
- II. Power to alter boundaries of counties—new counties—vote of two-thirds—ratification by voters.
6. I. Money to be drawn from treasury only by law—receipts and expenditures.
- II. Donations or gratuities in favor of any person to be by two-thirds vote—not allowed for sectarian corporations.
- III. Laws not to be amended by title or number of section in Code—acts amending or repealing to be fully given—this to be directory only.
- IV. Laws not to compel any citizen to become, directly or indirectly, a stockholder in any public work or improvement—exception—corporate authorities may be allowed to take stock.
- V. Corporate powers limited to certain private companies—general laws—restriction upon banking—State credit limited—necessity of Governor's signature to be waived only when veto is not sustained.

ARTICLE IV.—Executive.

1. I. Executive power, how vested—term of Governor—salary.
- II. Time of election—returns, how made, canvassed and published—case of equal vote—contested elections.
- III. Qualifications of Governor.
- IV. Vacancies in office of Governor to be filled by President of Senate or by Speaker of House—special elections to fill vacancies.
- V. Oath of Governor.
2. I. Commander-in-Chief.
- II. Pardon power—impeachments excepted.
- III. Governor to issue writs of election to fill vacancies in General Assembly—may call extra sessions—messages.
- IV. Power to fill vacancies in office.
- V. Persons once rejected not to be reappointed at same session or next recess.
- VI. Veto power—bills to be returned within five days—may disapprove of some appropriations in bills without affecting others—passage over veto.
- VII. Governor to approve votes, resolutions or orders of concurrence.
- VIII. Secretary of State—Comptroller-General—Treasurer—Surveyor-General—any two may be consolidated.
- IX. Great Seal, when to be used.
- X. Governor may appoint two secretaries.

ARTICLE V.—Judiciary.

SECTIONS.

1. Judicial power, how vested.
2. I. Supreme Court, how composed—quorum—case of disqualification of judges—term—classification.
- II. Jurisdiction of Supreme Court—place of sitting—times to be fixed by law.
- III. To dispose of every case at first or second term—cases, when stricken from docket—judgment may be withheld until next term.
- IV. Case of disagreement of two judges.
3. I. A Judge of Superior Court for each Judicial District—may act in other circuits—term—classification.
- II. Jurisdiction of Superior Courts—other powers may be conferred by law.
- III. No appeal from one jury to another—new trials—court, when to render verdict.
- IV. Terms of Superior Court.
4. I. A District Judge and District Attorney in each Senatorial District.
- II. Jurisdiction of District Judges—of Attorneys.
- III. Terms of District Courts.
- IV. Trial before District Judges—written accusation on affidavit.
- V. Jury trials when had before District Judge.
- VI. Civil jurisdiction of District Judge.
- VII. Terms of District Judges and Attorneys—pay not to depend upon fees or fines.
5. I. Courts of Ordinary and of Probate—appeals.
- II. Powers of Courts of Ordinary to be regulated by law.
- III. Term of Ordinary.
6. I. Justices of Peace—number—term.
- II. Jurisdiction of Justices of Peace.
- III. Appeals to jury from decisions of a Justice of Peace restricted.
- IV. Notaries Public—*ex officio* Justices of Peace.
7. I. Attorney-General—term.
- II. Legal adviser of Executive Department—to represent State in civil and criminal cases.
8. I. Solicitor-General for each Judicial Circuit—term.
- II. Duty of Solicitor-General.
9. I. Appointment of Judges, Attorney-General, Solicitor-General, and District Judges and Attorneys—removal.
- II. Justices of Peace elected—removal.
10. I. Salaries of judicial officers—not to be increased or diminished during term—to receive no other perquisites.
- II. Apportionment of compensation—moneys arising from fines and forfeitures.
- III. Qualification of Judges and Attorney-General.
11. I. Divorces, when granted—jury to determine the rights of parties.
12. I. Divorces, where tried.
- II. Criminal cases, where tried—venue.
- III. Title of land, where tried.
- IV. Equity cases—where tried.
- V. Suits in case of promissory notes or like instruments.
- VII. Other cases, where tried.
13. I. Right of trial by jury to remain inviolate.
- II. Selection of jurors—no distinction between classes who compose grand and petit juries—pay of jurors.
14. Inferior Courts abolished—business, how transferred.
15. County Commissioners may be created.
16. Courts not specially mentioned may be abolished.

SECTIONS.

17. [Disapproved in part by Congress.]

- I. Jurisdiction in cases of contract before certain date — exceptions — debts for slaves or slave hire void.
- II. Debts made in aid of rebellion declared illegal and void — proceedings in case of.
- III. Tax assessed upon certain debts — judgments on causes of action — proviso.

ARTICLE VI. — *Education.*

- I. Thorough system of general education to be provided — free to all.
- II. State School Commissioner — appointment — term — salary — office.
- III. [Disapproved by Congress.] Poll tax.

ARTICLE VII. — *Homestead and Exemption.*

- I. Value exempted from execution — exceptions.
- II. Property of married women.

ARTICLE VIII. — *Militia.*

1. Persons liable to military duty — to be organized, armed and disciplined.
2. Volunteer companies.
3. Exemptions from military duty.

ARTICLE IX. — *County Officers.*

County officers continued until changed by law — terms — how removed.

ARTICLE X. — *Seat of Government.*

- I. Fixed at Atlanta — buildings to be erected.
- II. Temporary removal in case of invasion, pestilence or other emergency.

ARTICLE XI. — *Law of General Operation in force in State.*

- I. Constitution, laws and treaties of United States as supreme.
- II. This Constitution as next in authority.
- III. Certain legislative acts and codes — common law — acts formerly passed and not repealed or expired.
- IV. Local and private acts not inconsistent with the supreme law, subject to judicial decision and limitation — terms.
- V. Vested rights and privileges, unless attached for fraud or otherwise declared invalid.
- VI. Records and proceedings of courts — final judgments, decrees, proceedings and acts — proceedings not final to continue — proviso and restrictions.
- VII. Books, papers and proceedings of Inferior Courts — of County Courts — unfinished business.
- VIII. Cases pending and judgments had in City Courts of Savannah and Augusta — in other courts — how disposed of.
- IX. Validity of judgments and proceedings of courts under appointment of United States military authority.
- X. These acts of confirmation not to divest of right, nor to make any act criminal or not criminal, but to prevent injustice — proviso.
- XI. Continuance of officers in case the Constitution is adopted.
- XII. Ordinances on first election, and first General Assembly to have force of laws.

ARTICLE XII. — *Amendments to the Constitution.*

May be amended by two-thirds of two successive Legislatures — to be ratified by voters — Convention.

PREAMBLE.

We, the people of Georgia, in order to form a permanent Government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this Constitution for the State of Georgia.

ARTICLE I.

DECLARATION OF FUNDAMENTAL PRINCIPLES.

SECTION 1. Protection to person and property is the paramount duty of government, and shall be impartial and complete.

§ 2. All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State, and no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of this State, or deny to any person within its jurisdiction the equal protection of its laws. And it shall be the duty of the General Assembly, by appropriate legislation, to protect every person in the due enjoyment of the rights, privileges and immunities guaranteed in this section.

§ 3. No person shall be deprived of life, liberty or property, except by due process of law.

§ 4. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

§ 5. The right of the people to appeal to the courts, to petition Government on all matters, and peaceably to assemble for the consideration of any matter, shall never be impaired.

§ 6. Perfect freedom of religious sentiment shall be and the same is hereby secured, and no inhabitant of this State shall ever be molested in person or property, or prohibited from holding any public office or trust on account of his religious opinion; but the liberty of conscience, hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the people.

§ 7. Every person charged with an offense against the laws shall have the privilege and benefit of counsel, shall be furnished, on demand, with a copy of the accusation, and a list of the witnesses on whose testimony the charge against him is founded, shall have compulsory process to obtain the attendance of his own witnesses, shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury.

§ 8. No person shall be put in jeopardy of life or liberty more than once for the same offense, save on his or her own motion for a new trial after conviction, or in case of mis-trial.

§ 9. Freedom of speech and freedom of the press are inherent elements of political liberty. But while every citizen may freely speak, or write, or print, on any subject, he shall be responsible for the abuse of the liberty.

§ 10. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or things to be seized.

§ 11. The social status of the citizen shall never be the subject of legislation.

§ 12. No person shall be molested for his opinions, or be subject to any civil or political incapacity, or acquire any civil or political advantage in consequence of such opinions.

§ 13. The writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

§ 14. A well-regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be

infringed; but the General Assembly shall have power to prescribe by law the manner in which arms may be borne.

§ 15. The punishment of all frauds shall be provided by law.

§ 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall any person be abused in being arrested, while under arrest, or in prison.

§ 17. The power of the courts to punish for contempt shall be limited by legislative acts.

§ 18. There shall be no imprisonment for debt.

§ 19. In all prosecutions or indictments for libel the truth may be given in evidence, and the jury shall have the right to determine the law and the facts.

§ 20. Private ways may be granted upon just compensation being paid by the applicant.

§ 21. All penalties shall be proportioned to the nature of the offense.

§ 22. Whipping, as a punishment for crime, is prohibited.

§ 23. No lottery shall be authorized, or sale of lottery tickets allowed in this State, and adequate penalties for such sale shall be provided by law.

§ 24. No conviction shall work corruption of blood, and no conviction of treason shall work a general forfeiture of estate longer than during the life of the person attainted.

§ 25. Treason against the State of Georgia shall consist only in levying war against the State, or the United States, or adhering to the enemies thereof, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 26. Laws shall have a general operation, and no general law, affecting private rights, shall be varied, in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract is capable of such free consent.

§ 27. The power of taxation over the whole State shall be exercised by the General Assembly only to raise revenue for the support of government, to pay the public debt, to provide a general school fund, for common defense, and for public improvement; and taxation on property shall be *ad valorem* only, and uniform on all species of property taxed.

§ 28. The General Assembly may grant the power of taxation to county authorities and municipal corporations, to be exercised within their several territorial limits.

§ 29. No poll-tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually on each poll.

§ 30. Mechanics and laborers shall have liens upon the property of their employers for labor performed or material furnished, and the Legislature shall provide for the summary enforcement of the same.

§ 31. The legislative, executive and judicial Departments shall be distinct; and each Department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one Department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

§ 32. Legislative acts in violation of this Constitution, or the Constitution of the United States, are void, and the judiciary shall so declare them.

§ 33. The State of Georgia shall ever remain a member of the American Union; the people thereof are a part of the American nation; every citizen thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State, in contravention or subversion thereof, shall ever have any binding force.

ARTICLE II.

FRANCHISE AND ELECTIONS.

SECTION 1. In all elections by the people, the electors shall vote by ballot.

§ 2. Every male person born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old, or upward, who shall have resided in this State six months next preceding the election, and shall have resided thirty days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity of paying, agreeably to law, for the year next preceding the election (except as hereinafter provided), shall be deemed an elector; and every male citizen of the United States, of the age aforesaid (except as hereinafter provided), who may be a resident of the State at the time of the adoption of this Constitution, shall be deemed an elector, and shall have all the rights of an elector, as aforesaid: *Provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote, who, if challenged, shall refuse to take the following oath: "I do swear that I have not given, or received, nor do I expect to give, or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected,

or expected to be affected, at this election, nor have I given or promised any reward, or made any threat, by which to prevent any person from voting at this election."

§ 3. No person convicted of felony or larceny before any court of this State, or of or in the United States, shall be eligible to any office or appointment of honor or trust within this State, unless he shall have been pardoned.

§ 4. No person who is the holder of any public moneys shall be eligible to any office in this State, until the same is accounted for and paid into the treasury.

§ 5. No person who, after the adoption of this Constitution, being a resident of this State, shall engage in a duel in this State, or elsewhere, or shall send or accept a challenge, or be aider or abettor to such duel, shall vote or hold office in this State; and every such person shall also be subject to such punishment as the law may prescribe.

§ 6. The General Assembly may provide from time to time for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 2d. Idiots or insane persons.

§ 7. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest for five days before an election, during the election, and two days subsequent thereto.

§ 8. The sale of intoxicating liquors on days of election is prohibited.

§ 9. Returns of election for all civil officers elected by the people, who are to be commissioned by the Governor, and also for the members of the General Assembly, shall be made to the Secretary of State, unless otherwise provided by law.

§ 10. The General Assembly shall enact laws giving adequate protection to electors before, during, and subsequent to elections.

§ 11. The election of Governor, members of Congress, and of the General Assembly, after the year 1868, shall commence on the Tuesday after the first Monday in November, unless otherwise provided by law.

ARTICLE III.

LEGISLATIVE.

SECTION 1. I. The legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, and, until otherwise directed, the members thereof, after the first election, shall be elected, and the returns of the election made, as now prescribed by law.

II. The members of the Senate shall be elected for four years, except that the members elected at the first election from the twenty-two senatorial districts numbered in this Constitution with odd numbers shall only hold their office for two years. The members of the House of Representatives shall be elected for two years. The election for members of the General Assembly shall begin on Tuesday after the first Monday in November of every second year, except the first election, which shall be within sixty days after the adjournment of this Convention; but the General Assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified.

III. The first meeting of the General Assembly shall be within ninety days after the adjournment of this Convention, after which it shall meet annually on the second Wednesday in January, or on such other day as the General Assembly may prescribe. A majority of each House shall constitute a quorum to transact business; but a smaller number may adjourn from day to day and compel the presence of its absent members as each House may provide. No session of the General Assembly, after the second under this Constitution, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

IV. No person holding a military commission, or other appointment or office, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except Justices of the Peace and officers of the militia, nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either House; nor shall any Senator or Representative, after his qualification as such, be elected by the General Assembly or appointed by the Governor, either with or without the advice and consent of the Senate, to any office or appointment, having any emolument annexed thereto, during the time for which he shall have been elected.

V. The seat of a member of either House shall be vacated on his removal from the district from which he was elected.

§ 2. I. There shall be forty-four Senatorial districts in this State, composed each of three contiguous counties, from each of which districts one Senator shall be chosen. Until otherwise arranged, as hereinafter provided, the said districts shall be constituted as follows:

The First District, of Chatham, Bryan and Effingham.

The Second District, of Liberty, Tatnall and McIntosh.

The Third District, of Wayne, Pierce and Appling.

The Fourth District, of Glynn, Camden and Charlton.

The Fifth District, of Coffee, Ware and Clinch.

The Sixth District, of Echols, Lowndes, and Berrien.

The Seventh District, of Brooks, Thomas and Colquitt.
 The Eighth District, of Decatur, Mitchell and Miller.
 The Ninth District, of Early, Calhoun and Baker.
 The Tenth District, of Dougherty, Lee and Worth.
 The Eleventh District, of Clay, Randolph and Terrill.
 The Twelfth District, of Stewart, Webster and Quitman.
 The Thirteenth District, of Sumter, Schley and Macon.
 The Fourteenth District, of Dooley, Wilcox and Pulaski.
 The Fifteenth District, of Montgomery, Telfair and Irwin.
 The Sixteenth District, of Laurens, Johnson and Emanuel.
 The Seventeenth District, of Bullock, Scriven and Burke.
 The Eighteenth District, of Richmond, Glascock and Jefferson.
 The Nineteenth District, of Taliaferro, Warren and Greene.
 The Twentieth District, of Baldwin, Hancock and Washington.
 The Twenty-first District, of Twiggs, Wilkinson and Jones.
 The Twenty-second District, of Bibb, Monroe and Pike.
 The Twenty-third District, of Houston, Crawford and Taylor.
 The Twenty-fourth District, of Marion, Chattahoochee and Muscogee.
 The Twenty-fifth District, of Harris, Upson and Talbot.
 The Twenty-sixth District, of Spaulding, Butts and Fayette.
 The Twenty-seventh District, of Newton, Walton and Clarke.
 The Twenty-eighth District, of Jasper, Putnam and Morgan.
 The Twenty-ninth District, of Wilkes, Lincoln and Columbia.
 The Thirtieth District, of Oglethorpe, Madison and Elbert.
 The Thirty-first District, of Hart, Franklin and Habersham.
 The Thirty-second District, of White, Lumpkin and Dawson.
 The Thirty-third District, of Hall, Banks and Jackson.
 The Thirty-fourth District, of Gwinnett, DeKalb and Henry.
 The Thirty-fifth District, of Clayton, Fulton and Cobb.
 The Thirty-sixth District, of Meriwether, Coweta and Campbell.
 The Thirty-seventh District, of Troup, Heard and Carroll.
 The Thirty-eighth District, of Haralson, Polk and Paulding.
 The Thirty-ninth District, of Cherokee, Milton and Forsyth.
 The Fortieth District, of Union, Towns and Rabun.
 The Forty-first District, of Fannin, Gilmer and Pickens.
 The Forty-second District, of Bartow, Floyd and Chattooga.
 The Forty-third District, of Murray, Whitfield and Gordon.
 The Forty-fourth District, of Walker, Dade and Catoosa.

If a new county be established it shall be added to a district which it adjoins, and from which the larger portion of its territory is taken. The Senatorial districts may be changed by the General Assembly, but only at the first session after the publication of each census by

the United States government, and their number shall not be increased.

II. The Senators shall be citizens of the United States, who have attained the age of twenty-five years, and who, after the first election under this Constitution, shall have been citizens of this State for two years, and for one year resident of the district from which elected.

III. The presiding officer of the Senate shall be styled the President of the Senate, and shall be elected *viva voce* from the Senators.

IV. The Senate shall have the sole power to try impeachments. When sitting for that purpose, the members shall be on oath or affirmation, and shall be presided over by one of the Judges of the Supreme Court, selected for that purpose by a *viva voce* vote of the Senate; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust or profit within this State; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

§ 3. I. The House of Representatives shall consist of one hundred and seventy-five Representatives, apportioned as follows:—To the six largest counties, to wit: Chatham, Richmond, Fulton, Bibb, Houston and Burke, three Representatives each; to the thirty-one next largest, to wit: Bartow, Columbia, Cobb, Coweta, Clarke, Decatur, Dougherty, Floyd, Gwinnett, Greene, Hancock, Harris, Jefferson, Lee, Muscogee, Monroe, Meriwether, Morgan, Macon, Newton, Oglethorpe, Pulaski, Randolph, Sumter, Stewart, Troup, Thomas, Talbot, Washington, Wilkes and Warren, two Representatives each; and to the remaining ninety-five counties, one Representative each.

II. The above apportionment may be changed by the General Assembly after each census by the United States Government, but in no event shall the aggregate number of Representatives be increased.

III. The Representatives shall be citizens of the United States who have attained the age of twenty-one years, and who, after the first election under this Constitution, shall have been citizens of this State for one year, and for six months resident of the counties from which elected.

IV. The presiding officer of the House of Representatives shall be styled the Speaker of the House of Representatives, and shall be elected *viva voce* from the body.

V. The House of Representatives shall have the sole power to impeach all persons who shall have been or may be in office.

VI. All bills for raising revenue, or appropriating money, shall originate in the House of Representatives, but the Senate may propose or concur in amendments, as in other bills.

§ 4. I. Each House shall be the judge of the election returns and qualifications of its members, and shall have power to punish them for disorderly behavior or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thirds of the House from which he is expelled.

II. Each House may punish, by imprisonment, not extending beyond the session, any person, not a member, who shall be guilty of a contempt by any disorderly behavior in its presence, or who, during the session, shall threaten injury to the person or estate of any member for any thing said or done in either House, or who shall assault any member going to or returning therefrom, or who shall rescue or attempt to rescue any person arrested by order of either House.

III. The members of both Houses shall be free from arrest during their attendance on the General Assembly, and in going to or returning therefrom, except for treason, felony, larceny or breach of the peace; and no member shall be liable to answer in any other place for any thing spoken in debate in either House.

IV. Each House shall keep a journal of its proceedings, and publish it immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. The original journal shall be preserved, after publication, in the office of the Secretary of State, but there shall be no other record thereof.

V. Every bill, before it shall pass, shall be read three times, and on three separate days, in each House, unless in cases of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

VI. All acts shall be signed by the President of the Senate and the Speaker of the House of Representatives; and no bill, ordinance or resolution, intended to have the effect of a law, which shall have been rejected by either House, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the House by which the same was rejected.

VII. Neither House shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two Houses on a question of adjournment, the Governor may adjourn either or both of them.

VIII. The officers of the two Houses, other than the President and Speaker, shall be a Secretary of the Senate and Clerk of the House,

and an assistant for each; a Journalizing Clerk, two Engrossing and two Enrolling Clerks for each House, and the number shall not be increased except by a vote of the House. And their pay, as well as the pay and mileage of the members, shall be fixed by law.

IX. Whenever the Constitution requires a vote of two-thirds of either or both Houses for the passing of an act or resolution, the yeas and nays on the passage thereof shall be entered on the journal, and all votes on confirmations, or refusals to confirm nominations to office by the Governor, shall be by yeas and nays, and the yeas and nays shall be recorded on the journal.

X. Every Senator, or Representative, before taking his seat, shall take an oath, or affirmation, to support the Constitution of the United States, and of this State; that he has not practiced any unlawful means, directly or indirectly, to procure his election, and that he has not given, or offered, or promised, or caused to be given, or offered, or promised, to any person, any money, treat or thing of value, with intent to affect any vote, or to prevent any person voting at the election at which he was elected.

§ 5. I. The General Assembly shall have power to make all laws and ordinances consistent with this Constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

II. The General Assembly may alter the boundaries of, or lay off and establish new counties, or abolish counties, attaching the territory thereof to contiguous counties; but no new county shall be established except by a vote of two-thirds of each House, nor shall any county be abolished except by a vote of two-thirds of each House, and after the qualified voters of the county shall, at an election held for the purpose, so decide.

§ 6. I. No money shall be drawn from the treasury except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time, and, also, with the laws passed by each session of the General Assembly.

II. No vote, resolution, law, or order, shall pass, granting a donation, or gratuity, in favor of any person, except by the concurrence of two-thirds of each branch of the General Assembly, nor, by any vote, to a sectarian corporation, or association.

III. No law or section of the code shall be amended or repealed by mere reference to its title, or to the number of the section in the code, but the amending or repealing act shall distinctly and fully describe the law to be amended or repealed, as well as the alteration to be made;

but this clause shall be construed as directory only to the General Assembly.

IV. No law shall be passed by which a citizen shall be compelled, against his consent, directly or indirectly, to become a stockholder in, or contribute to, any railroad or work of public improvement, except in the case of the inhabitants of a corporate town or city. In such cases, the General Assembly may permit the corporate authorities to take such stock, or make such contribution, or engage in such work, after a majority of the qualified voters of such town or city, voting at an election held for the purpose, shall have voted in favor of the same; but not otherwise.

V. The General Assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, navigation, mining, express, lumber, manufacturing and telegraph companies; nor to make, or change, election precincts; nor to establish bridges or ferries; nor to change names or legitimate children; but it shall prescribe, by law, the manner in which such powers shall be exercised by the courts. But no charter for any bank shall be granted or extended, and no act passed authorizing the suspension of specie payments by any bank, except by a vote of two-thirds of the General Assembly. The General Assembly shall pass no law making the State a stockholder in any corporate company; nor shall the credit of the State be granted or loaned to aid any company without a provision that the whole property of the company shall be bound for the security of the State, prior to any other debt or lien, except to laborers; nor to any company in which there is not already an equal amount invested by private persons; nor for any other object than a work of public improvement. No provision in this Constitution for a two-thirds vote of both Houses of the General Assembly shall be construed to waive the necessity for the signature of the Governor, as in any other cases, except in the case of the two-thirds vote required to override the veto.

ARTICLE IV.

EXECUTIVE.

SECTION 1. I. The Executive power shall be vested in a Governor, who shall hold his office during the term of four years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; nor shall he receive within that period any other emolument from the United States, or either of them, or from any foreign power.

II. After the first election, the Governor shall be elected quadrennially, by the persons qualified to vote for members of the General Assembly, on the Tuesday after the first Monday in November, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the same manner as is prescribed for the election of members of the General Assembly. The returns for every election of Governor, after the first, shall be sealed up by the managers, separately from other returns, and directed to the President of the Senate and Speaker of the House of Representatives, and transmitted to his Excellency the Governor, or the person exercising the duties of Governor for the time being, who shall, without opening the said returns, cause the same to be laid before the Senate on the day after the two Houses shall have been organized; and they shall be transmitted by the Senate to the House of Representatives. The members of each branch of the General Assembly shall convene in the Representative hall, and the President of the Senate and the Speaker of the House of Representatives shall open and publish the returns in the presence of the General Assembly; and the person having the majority of the whole number of votes given shall be declared duly elected Governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the Legislature to elect, the General Assembly shall immediately elect a Governor *vica voce*; and in all cases of election of a Governor by the General Assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

III. No person shall be eligible to the office of Governor who shall not have been a citizen of the United States fifteen years, and a citizen of this State six years, and who shall not have attained the age of thirty years.

IV. In case of the death, resignation or disability of the Governor, the President of the Senate shall exercise the Executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation or disability of the President of the Senate, the Speaker of the House of Representatives shall exercise the Executive powers of the government until the removal of the disability, or the election and qualification of a Governor. The General Assembly shall have power to provide by law for filling unexpired terms by a special election.

V. The Governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or

affirm, as the case may be) that I will faithfully execute the office of Governor of the State of Georgia, and will, to the best of my abilities, preserve, protect and defend the Constitution thereof, and the Constitution of the United States of America."

§ 2. I. The Governor shall be Commander-in-Chief of the army and navy of this State, and of the militia thereof.

II. He shall have power to grant reprieves and pardons, to commute penalties, and to remit any part of a sentence for offenses against the State, except in cases of impeachment.

III. He shall issue writs of election to fill all vacancies that happen in the Senate or House of Representatives, and shall have power to convoke the General Assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the Commonwealth, and recommend to their consideration such measures as he may deem necessary and expedient.

IV. When any office shall become vacant by death, resignation, or otherwise, the Governor shall have power to fill such vacancy, unless otherwise provided by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this Constitution, or by law, in pursuance thereof.

V. A person once rejected by the Senate shall not be re-appointed by the Governor to the same office during the same session, or the recess thereafter.

VI. The Governor shall have the revision of all bills passed by both Houses before the same shall become laws, but two-thirds of each House may pass a law, notwithstanding his dissent; and if any bill should not be returned by the Governor within five days (Sundays excepted) after it has been presented to him, the same shall be a law, unless the General Assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each House.

VII. Every vote, resolution, or order, to which the concurrence of both Houses may be necessary, except on a question of election or adjournment, shall be presented to the Governor, and before it shall take effect be approved by him, or, being disapproved, shall be re-passed by two-thirds of each House, according to the rules and limitations prescribed in case of a bill.

VIII. There shall be a Secretary of State, a Comptroller-General, a Treasurer, and Surveyor-General, elected by the General Assembly, and they shall hold their offices for the like period as the Governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected.

The General Assembly may, at any time, consolidate any two of these offices, and require all the duties to be discharged by one officer.

IX. The Great Seal of the State shall be deposited in the office of the Secretary of State, and shall not be affixed to any instrument of writing but by order of the Governor or General Assembly; and that now in use shall be the Great Seal of the State, until otherwise provided by law.

X. The Governor shall have power to appoint his own Secretaries, not exceeding two in number, unless more shall be authorized by the General Assembly.

ARTICLE V.

JUDICIARY.

SECTION 1. I. The judicial powers of this State shall be vested in a Supreme Court, Superior Courts, Courts of Ordinary, Justices of the Peace, commissioned Notaries Public, and such other courts as have been or may be established by law.

§ 2. I. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum. When a majority of the Judges are disqualified from deciding any case, by interest or otherwise, the Governor shall designate certain Judges of the Superior Courts to sit in their stead. At the first appointment of Judges of the Supreme Court under this Constitution, one shall be appointed for four years, one for eight years, and one for twelve years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of twelve years.

II. The Supreme Court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors from the Superior Courts and from the City Courts of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit at the seat of government at such times in each year as shall be prescribed by law, for the trial and determination of writs of error from said Superior and City Courts. The days on which the cases from the several Circuits and City Courts shall be taken up by the court shall be fixed by law.

III. The Supreme Court shall dispose of every case at the first or second term after such writ of error is brought; and in case the plaintiff in error shall not be prepared at the first term to prosecute the case, unless prevented by providential cause, it shall be stricken from the docket, and the judgment below shall stand affirmed. In any case the court may, in its discretion, withhold its judgment until the next term after the same is argued.

IV. When only two Judges sit in any case, and they disagree, the judgment below shall stand affirmed.

§ 3. I. There shall be a Judge of the Superior Courts for each Judicial Circuit. He may act in other circuits when authorized by law. At the first appointment of such Judges under this Constitution, one-half of the number (as near as may be) shall be appointed for four years, and the other half for eight years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of eight years.

II. The Superior Courts shall have exclusive jurisdiction in cases of divorce; in criminal cases, where the offender is subjected to loss of life or confinement in the penitentiary; in cases respecting titles to land and equity cases, except as hereinafter provided; but the General Assembly shall have power to merge the common law and equity jurisdiction of said courts. Said courts shall have jurisdiction in all other civil cases, except as hereinafter provided. They shall have appellate jurisdiction in all cases as may be provided by law; they shall have power to correct errors in inferior judicatories, by writ of *certiorari*, which shall only issue on the sanction of the judge; and to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs that may be necessary for carrying their powers fully into effect, and shall have such other powers as shall be conferred on them by law.

III. There shall be no appeal from one jury in the Superior Courts to another, but the court may grant new trials on legal grounds. The court shall render judgment without the verdict of a jury in all civil cases founded on contract, where an issuable defense is not filed on oath.

IV. The Superior Courts shall sit in each county not less than twice in each year, at such times as have been or may be appointed by law.

§ 4. I. Until the General Assembly shall otherwise direct, there shall be a District Judge and a District Attorney for each Senatorial District in this State.

II. The District Judge shall have jurisdiction to hear and determine all offenses not punishable with death or imprisonment in the penitentiary; and it shall be the duty of the District Attorney to represent the State in all cases before the District Judge.

III. The District Judge shall sit at stated times, not less than once in each month in each county in his district, for the trial of offenses, and at such other times as the General Assembly may direct.

IV. Offenses shall be tried before the District Judge on a written accusation founded on affidavit; said accusation shall plainly set

forth the offense charged, and shall contain the name of the accuser, and be signed by the District Attorney.

V. There shall be no jury trial before the District Judge, except when demanded by the accused, in which case the jury shall consist of seven.

VI. Such civil jurisdiction may be conferred on the District Judges as the General Assembly may direct.

VII. The District Judges and Attorneys shall hold their offices for a period of four years, and shall receive for their services such stated compensation in their respective districts as may be provided by law, but in no event shall their compensation be in anywise dependent on fines, forfeitures or costs.

§ 5. I. The powers of a Court of Ordinary and of Probate shall be vested in an Ordinary for each county, from whose decision there may be an appeal to the Superior Court, under regulations prescribed by law.

II. The Courts of Ordinary shall have such powers in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds, and taxes, and other matters, as shall be conferred on them by law.

III. The Ordinary shall hold his office for the term of four years, and until his successor is elected and qualified.

§ 6. I. There shall be in each district one Justice of the Peace, whose official term, except when elected to fill an unexpired term, shall be four years.

II. The Justices of the Peace shall have jurisdiction, except as hereinafter provided, in all civil cases where the principal sum claimed does not exceed one hundred dollars, and may sit at any time for the trial of such cases; but, in cases where the sum claimed is more than fifty dollars, there may be an appeal to the Superior Court, under such regulations as may be prescribed by law.

III. There shall be no appeal to a jury from the decision of a Justice of the Peace, except as provided in the foregoing paragraph.

IV. Notaries Public may be appointed and commissioned by the Governor, not to exceed one for each militia district, for a term of four years, and shall be *ex officio* Justices of the Peace.

§ 7. I. There shall be an Attorney-General of the State, whose official term, except when appointed to fill an unexpired term, shall be four years.

II. It shall be the duty of the Attorney-General to act as the legal adviser of the Executive Department, to represent the State in all civil and criminal cases in the Supreme and Superior Courts when

required by the Governor, and to perform such other services as shall be required of him by law.

§ 8. I. There shall be a Solicitor-General for each judicial circuit, whose official term, except when appointed to fill an unexpired term, shall be four years.

II. It shall be the duty of the Solicitor-General to represent the State in all cases in the Superior Courts of his circuit, and in all cases taken up from his circuit to the Supreme Court, and to perform such other services as shall be required of him by law.

§ 9. I. The Judges of the Supreme and the Superior Courts, the Attorney-General, Solicitors-General, and the District Judges and Attorneys, shall be appointed by the Governor, with the advice and consent of the Senate, and shall be removable by the Governor on the address of two-thirds of each branch of the General Assembly, or by impeachment and conviction thereon.

II. Justices of the Peace shall be elected by the legal voters in their respective districts, and shall be commissioned by the Governor. They shall be removable on conviction for malpractice in office.

§ 10. I. The Judges of the Supreme and Superior Courts and the Attorney and Solicitors General shall have, out of the State treasury, adequate and honorable salaries on the specie basis, which shall not be increased or diminished during their continuance in office. The District Judges and District Attorneys shall receive, out of the treasuries of the several counties of their districts, adequate compensation, on the specie basis, which shall not be increased or diminished during their term of office; but said Judges shall not receive any other perquisites or emoluments whatever from parties or others on account of any duty required of them.

II. The General Assembly shall provide for the equitable apportionment of the compensation of the District Judges and Attorneys between the counties composing their districts, and shall require the moneys arising from fines and forfeitures in the District Courts to be paid into the treasuries thereof.

III. No person shall be Judge of the Supreme or Superior Courts, or Attorney-General, unless at the time of his appointment he shall have attained the age of thirty years, and shall have been a citizen of this State three years, and have practiced law for seven years.

§ 11. I. No total divorce shall be granted except on the concurrent verdicts of two juries. When a divorce is granted, the jury rendering the final verdict shall determine the rights and disabilities of the parties, subject to the revision of the court.

§ 12. I. Divorce cases shall be tried in the county where the defendant resides, if a resident of this State.

II. Criminal cases shall be tried in the county where the crime was committed, except cases in the Superior Courts when the presiding Judge is satisfied that an impartial jury cannot be obtained in such county.

III. Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county line, in which case the Superior Court of either county shall have jurisdiction.

IV. Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

V. Suits against joint obligors, joint promisors, copartners, or joint trespassers, residing in different counties, may be tried in either county.

VI. Suits against the maker and indorser of promissory notes or other like instruments, residing in different counties, shall be tried in the county where the maker resides.

VII. All other cases shall be tried in the county where the defendant resides.

§ 13. I. The right of trial by jury, except where it is otherwise provided in this Constitution, shall remain inviolate.

II. The General Assembly shall provide by law for the selection of upright and intelligent persons to serve as jurors. There shall be no distinction between the classes of persons who compose grand and petit juries. Jurors shall receive adequate compensation for their services, to be prescribed by law.

§ 14. I. The courts heretofore existing in this State styled Inferior Courts are abolished, and their unfinished business, and the duties of the Justices thereof, are transferred to such tribunals as the General Assembly may designate.

§ 15. I. The General Assembly shall have power to provide for the creation of County Commissioners in such counties as may require them, and to define their duties.

§ 16. I. All Courts not specially mentioned by name in the first section of this article may be abolished in any county, at the discretion of the General Assembly, and the County Courts now existing in Georgia are hereby abolished.

§ 17.¹ I. No court or officer shall have, nor shall the General As-

¹ By an act of Congress, approved June 25, 1868, entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama and Florida to representation in Congress," it was made a fundamental condition in the case of Georgia (in addition to her ratifying the Fourteenth Article of Amendment to the Constitution of the United States), "that the first and third subdivisions of section seventeen of the fifth article of the Constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State, by solemn public act, shall declare the assent of the State to the foregoing fundamental condition. The portions expunged were as follows:

"§ 1. No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the first day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the first day of June, 1865, except in the following cases:

"1. In suits against trustees, where the trust property is in the hands of the trustee, or has been

sembly have, jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof.

II. All contracts made and not executed during the late rebellion, with the intention and for the purpose of aiding and encouraging said rebellion, or where it was the purpose and intention of any one of the parties to such contract to aid or encourage said rebellion, and that fact was known to the other party, whether said contract was made by any person or corporation with the State or Confederate States, or by a corporation with a natural person, or between two or more natural persons, are hereby declared to have been and to be illegal; and all bonds, deeds, promissory notes, bills, or other evidences of debt, made or executed by the parties to such contract, or either of them, in connection with such illegal contract, or as the consideration thereof or in furtherance thereof, are hereby declared *null* and *void*, and shall be so held in all courts in this State when attempt shall be made to enforce any such contract or give validity to any such obligation or evidence of debt. And in all cases when the defendant or any one interested in the event of the suit will make a plea, supported by his or her affidavit, that he or she has reason to believe that the obligation or evidence of indebtedness upon which the suit is predicated, or some part thereof, has been given or used for the illegal purpose aforesaid, the burden of proof shall be upon the plaintiff to satisfy the court and jury that the bond, deed, note, bill, or other evidence of indebtedness, upon which said suit is brought, is or are not, nor is any part thereof, founded upon, or in any way connected with, any such illegal contract, and has not been used in aid of the rebellion, and the date of such bond, deed,

invested by him in other specific effects now in his hands, and in suits by the vendor of real estate against the vendee, where not more than one-third of the purchase-money has been paid, and the vendee is in possession of the land or specific effects for which he has sold it, and he refuses to deliver the land or said effects to the vendor. In such cases the courts and officers may entertain jurisdiction and enforce judgments against said trust property or land or effects.

"2. In suits for the benefit of minors by trustees appointed before the first day of June, 1865.

"3. In suits against corporations in their corporate capacity, but not so as to enforce the debt against the stockholders or officers thereof in their individual capacity.

"4. In suits by charitable or literary institutions for money loaned, property (other than slaves) sold, or services rendered by such institutions.

"5. In suits on debts due for mechanical or manual labor when the suit is by the mechanic or laborer.

"6. In cases where the debt is set up by way of defense, and the debt set up exceeds any debt due by defendant to plaintiff of which the Courts are denied jurisdiction.

"7. In all other cases in which the General Assembly shall, by law, give the said courts and officers jurisdiction: *Provided*, That—

"III. The poll-tax allowed by this Constitution, any educational fund now belonging to this State, except the endowment of any debt due to the State University, or that may hereafter be obtained in any way, a special tax on shows and exhibitions, and on the sale of spirituous and malt liquors (which the General Assembly is hereby authorized to assess), and the proceeds from the commutation for militia service, are hereby set apart and devoted to the support of common schools. And if the provisions herein made shall, at any time, prove insufficient, the General Assembly shall have power to levy such general tax upon the property of the State as may be necessary for the support of said school system. And there shall be established, as soon as practicable, one or more common schools in each school district in this State."

note, bill or other evidence of indebtedness shall not be evidence that it has or has not, since its date, been issued, transferred, or used in aid of the rebellion.

III. It shall be in the power of the General Assembly to assess and collect upon all debts, judgments or causes of action when due, founded on any contract made or implied before the first day of June, 1865, in the hands of any one in his own right, or as trustee, agent or attorney of another, on or after the first day of January, 1868, a tax of not exceeding twenty-five per cent, to be paid by the creditor, on pain of the forfeiture of the debt, but chargeable by him as to one-half thereof against the debtor, and collectable with the debt: *Provided*, That this tax shall not be collected if the debt or cause of action be abandoned or settled without legal process, or, if in judgment, be settled without levy and sale: *And provided further*, That this tax shall not be levied so long as the courts of this State shall not have jurisdiction of such debts or causes of action.

ARTICLE VI.

EDUCATION.

I. The General Assembly, at its first session after the adoption of this Constitution, shall provide a thorough system of general education, to be forever free to all children of the State, the expense of which shall be provided for by taxation or otherwise.

II. The office of State School Commissioner is hereby created. He shall be appointed by the Governor with the consent of the Senate, and shall hold his office for the same term as the Governor. The General Assembly shall provide for the said Commissioner a competent salary and necessary clerks. He shall keep his office at the seat of government.

ARTICLE VII.

HOMESTEAD AND EXEMPTION.

I. Each head of a family, or guardian, or trustee of a family of minor children, shall be entitled to a homestead of realty to the value of \$2,000 in specie, and personal property to the value of \$1,000 in specie, both to be valued at the time they are set apart. And no court, or ministerial officer in this State, shall ever have jurisdiction or authority to enforce any judgment, decree or execution against said property so set apart, including such improvements

as may be made thereon from time to time, except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase-money of the same, and for labor done thereon, or material furnished therefor, or removal of incumbrances thereon. And it shall be the duty of the General Assembly, as early as practicable, to provide, by law, for the setting apart and valuation of said property, and to enact laws for the full and complete protection and security of the same to the sole use and benefit of said families as aforesaid.

II. All property of the wife, in her possession at the time of her marriage, and all property given to, inherited or acquired by her, shall remain her separate property, and not be liable for the debts of her husband.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or this State; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law, subject to the paramount authority of Congress over this subject.

§ 2. Volunteer companies of cavalry, infantry or artillery may be formed in such manner, and with such restrictions, as may be provided by law.

§ 3. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for exemption; the amount to be prescribed by law, and appropriated to the common school fund.

ARTICLE IX.

COUNTY OFFICERS.

I. The county officers recognized as existing by the laws of this State, and not abolished by this Constitution, shall, where not otherwise provided for in this Constitution, be elected by the qualified voters of their respective counties or districts, and shall hold their offices for two years. They shall be removable on conviction for malpractice in office, or on the address of two-thirds of the Senate.

ARTICLE X.

SEAT OF GOVERNMENT.¹

I. The seat of government of this State, from and after the date of the ratification of this Constitution, shall be in the city of Atlanta, and the General Assembly shall provide for the erection of a new capitol, and such other buildings as the public welfare may require.

II. The General Assembly shall have power to provide for the temporary removal of the seat of government in case of invasion, pestilence or other emergency.

ARTICLE XI.

THE LAWS OF GENERAL OPERATION IN FORCE IN THIS STATE ARE,

I. As the supreme law, the Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States.

II. As next in authority thereto, this Constitution.

III. In subordination to the foregoing — all acts passed by any legislative body, sitting in this State as such, since the 19th day of January, 1861, including that body of laws known as the code of Georgia, and the acts amendatory thereof, or passed since that time, which said code and acts are embodied in the printed book known as "Irwin's Code;" and also so much of the common and statute laws of England, and of the statute laws of Georgia, as were in force in this State on the 19th day of December, 1860, as are not superseded by said Code, though not embodied therein, except so much of the said several statutes, Code and laws as may be inconsistent with the supreme law herein recognized, or may have been passed in aid of the late rebellion against the United States, or may be obsolete, or may refer to persons held in slavery, which excepted laws are inoperative and void; and any future General Assembly shall be competent to alter or repeal (if not herein prohibited) any portion of the laws declared to be of force in this third specification of this clause of this article; and if in any of said laws herein declared of force the word "Confederate" occurs before the word "States," such law is hereby amended by substituting the word "United" for the word "Confederate."

IV. Local and private acts passed for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the

¹ The seat of government, originally at Savannah, was transferred to Louisville, Jefferson county, by Constitutional Convention, May 16, 1795, and to Milledgeville, Baldwin county, in 1804, although the first session of the Legislature was not held there until 1807.

supreme law, nor with this Constitution, and which have not expired nor been repealed, shall have the force of statute law, subject to judicial decision as to their validity when passed, and to any limitations imposed by their own terms.

V. All rights, privileges and immunities which may have vested in, or accrued to, any person or persons, or corporation, in his, her, or their own right, or in any fiduciary capacity, under any act of any legislative body sitting in this State as such, or of any decree, judgment, or order of any court, sitting in this State, under the laws then of force and operation therein, and recognized by the people as a court of competent jurisdiction, since the 19th day of January, 1861, shall be held inviolate by all the courts of this State, unless attacked for fraud, or unless otherwise declared invalid by, or according to, this Constitution.

VI. The records, dockets, books, papers and proceedings of any court or office existing in this State by the laws thereof on the 19th of January, 1861, or purporting to exist by said laws, and recognized and generally obeyed by the people, as such, since the said time, and before the several courts and officers provided for by this Constitution shall have gone into actual operation, shall be transferred to the several courts and offices of the same name and functions by this Constitution provided for, and shall have force and be executed, perfected, and performed therein, and thereby, as follows, and not otherwise, to wit:

Final judgments, decrees, proceedings and acts fully executed and performed, or not requiring performance or execution, shall have full force and effect as though no interruption had taken place in the legal succession of said courts and offices, except as herein otherwise provided. Proceedings not final, and judgments and decrees not fully executed or performed, shall proceed and be performed in such cases, and such cases only, as this Constitution, or the laws made in pursuance thereof, confer jurisdiction and authority over the causes of actions on which said cases, judgments, decrees, or proceedings, civil or criminal, are founded: *Provided*, That all said judgments, decrees and proceedings shall be subject to be set aside, or reversed, or vacated, by proceedings in the several courts having custody of the records, as though they were the judgments of said courts, and shall be subject always to be explained as to the meaning of the word "dollar" or "dollars," as used in the same, and no motion for a new trial, bill of review, or other proceedings, to vacate any judgment, order or decree, made since the 19th of January, 1861, by any of said courts, for fraud, illegality, or error of law, shall be denied, by reason of the same not having been moved in time; provided said motion or application is made in twelve months from the adoption of this Constitution.

VII. The books, papers and proceedings of the Inferior Courts shall

be transferred to, and remain in, the control of the Ordinaries, who shall perform the duties of said courts until otherwise provided by law. The books, papers and proceedings of the County Courts, and the unfinished business thereof, shall be transferred to the Superior Courts, and the same shall be finished and performed by the said Superior Courts and the officers thereof, in such cases, and in such cases only, as the said courts are, by this Constitution or the laws made in pursuance thereof, granted jurisdiction over the subject-matter or debts on which said cases and judgments, civil or criminal, are founded.

VIII. The cases pending and the judgments had and made in the City Courts of Savannah and Augusta, and in the various Justices' Courts in this State, shall be finished and the judgments performed by the City Courts, and officers and justices provided by this Constitution in such cases, and such only, as by this Constitution jurisdiction is given to said courts and officers over the causes of action on which they are founded.

IX. The judgments and proceedings of courts, and acts of officers within their jurisdiction, as provided by law, shall be valid, notwithstanding the judges of said courts or the said officers were appointed by the military authorities of the United States, and any of said judgments, or acts, or proceedings made or done under, or by virtue of, or in accordance with, the orders of said military authorities, duly made, are as valid as if done under a law of this State.

X. These several acts of confirmation shall not be construed to divest any vested right, nor to make any act criminal otherwise not criminal, but they shall be construed as acts of peace, and to prevent injustice: *Provided*, That nothing in this Constitution shall be so construed as to make valid any acts done by, or before, any such *de facto* officer, which would, by legalizing such acts, render that criminal which was not criminal when done, or cause any act not legally criminal when done, to become criminal by giving validity to such act after it was done; but all such acts shall be held by the courts to be null and void.

XI. Should this Constitution be ratified by the people, and Congress accept the same with any qualifications or conditions, the government herein provided for, and the officers elected, shall nevertheless exist and continue in the exercise of their several functions, as the government of this State, so far as the same may be consistent with the action of the United States in the premises.

XII. The ordinances of this Convention on the subject of the first election and the first General Assembly shall have the force of laws, until they expire by their own limitation, and all other ordinances of a mere legislative character shall have the force of laws, until otherwise provided by the General Assembly.

ARTICLE XII.

AMENDMENTS TO THE CONSTITUTION.

I. This Constitution may be amended by a two-thirds vote of two successive Legislatures, and by a submission of the amendment to the qualified voters for final ratification. But the General Assembly shall not call a Convention of the people in the election of delegates to which any person qualified to vote by this Constitution shall be disqualified. And the representation in said Convention shall be based on population. Nor shall the right of suffrage ever be taken from any person qualified by this Constitution to vote.

J. R. PARROTT,

President of the Convention.

Attest: P. M. SHEIBLEY,

Secretary of the Convention.

Jos. Adkins,*
A. T. Akerman,
Robert Alexander,*
Isaac H. Anderson,*
N. L. Angier,
G. W. Ashburn,*
D. P. Baldwin,*
James C. Barton,
Peter B. Bedford,*
J. R. Bell,*
Madison Bell,†
Moses H. Bentley,*
John S. Bigby,†
Simeon W. Beaird,*
Foster Blodgett,*
Joseph E. Blount,*
Alfred Bowden,
John C. Bowden,*
W. F. Bowers,*
James R. Bracewell,*
Aaron A. Bradley,
Shadrick Brown,*
John E. Bryant,*
John Bryson,*
J. M. Buchan,
R. B. Bullock,*
George P. Burnett,†
John H. Caldwell,*

A. J. Cameron,†
T. G. Campbell,*
W. C. Carson,*
J. C. Casey,*
John W. T. Catching,*
Peter H. Chambers,*
George W. Chatters,*
Isaac W. Christian,*
H. H. Christian,
Malcomb Claiborn,*
Walter L. Clift,*
Samuel A. Cobb,*
E. S. Cobb,
Henry G. Cole,
Benjamin Conley,*
Martin Cooper,*
John T. Costin,*
D. G. Cotting,*
Wm. T. Crane,
S. W. Crawford,
Thomas Crayton,*
Robert Cramley,*
J. L. Cutler,
Samuel E. Dailey,*
Chas. W. Davis,*
W. W. Dews,†
Jesse Dinkins,*
Benjamin Dunnegan,*

James L. Dunning,*
Wm. P. Edwards,*
C. A. Ellington,*
S. E. Fields,
John H. Flynn,*
William A. Fort,
Albert G. Foster,†
Thomas J. Foster,†
Thomas Gibson,
Thomas Gilbert,*
H. H. Glisson,
Henry S. Glover,
W. L. Goodwin,*
Samuel F. Gore,*
W. A. Golden,*
William Griffin,*
William Guilford,*
John E. Hall,
George Harlan,
Asa L. Harris,
John Harris,*
W. H. Harrison,*
A. H. Harrison,*
John Higden,*
E. I. Higbee,*
Charles Hooks,*
A. W. Holcombe,†
C. H. Hopkins,*

* Voted for the Constitution.

† Voted against the Constitution.

N. P. Hotchkiss,*	Wilkey McHan,*	Benjamin Sikes,*
S. T. Houston,	Joseph McWhorter,	F. M. Smith,
W. J. Howe,	H. V. M. Miller,*	W. C. Smith,*
J. R. Hudson,	S. T. W. Minor,*	M. C. Smith,*
R. B. Hutchison,*	A. J. Moore,	F. T. Snead,
David Irwin,	Romulus Moore,*	L. S. Stanford,†
J. A. Jackson,*	Milton Moore,*	Simon Stanley,*
Philip Joiner,*	John Murphey,*	James Stewart,*
Van Jones,*	John Neal,*	T. J. Spear,*
W. F. Jordon,*	W. H. Noble,*	Alexander Stone,*
J. M. Key,*	Daniel Palmer,*	Henry Strickland,*
John H. King,†	J. R. Parrott,*	W. C. Supple,*
L. J. Knight,	Lewis Pope,*	L. N. Trammell,†
James Knox,*	M. A. Potts,*	J. W. Traywick,*
E. W. Lane,	B. F. Powell,*	H. M. Turner,*
W. C. Lee,*	C. H. Prince,*	James D. Waddell,†
George Linder,*	T. M. Rice,*	George Wallace,*
J. G. Lott,*	C. C. Richardson,	O. H. Walton,*
Robert Lumpkin,*	Lewis H. Roberts,	F. O. Welch,*
J. A. Madden,*	Robert Robertson,*	W. H. Whitehead,*
Posey Maddox,*	W. H. Rozar,*	Robert Whitehead,*
C. C. Martin,	T. P. Safford,*	John Whitaker,*
Philip Martin,	S. F. Saulter,	R. H. Whitely,*
E. B. Martin,†	Isaac Seeley,*	G. G. Wilbur,*
W. S. Marler,*	Josiah Sherman,*	Samuel Williams,*
J. Mathews,*	J. M. Shields,*	J. A. Woodey,*
T. G. Maul,*	Wesley Shropshire,*	F. Wooten,
H. K. McCoy,*	B. D. Shumate,*	Presley Yeates.



ILLINOIS.

This State is included within that tract of the public domain which was organized on the 13th of July, 1787, by an ordinance of the Continental Congress, into the "Territory of the United States northwest of the Ohio river." Small settlements had been made, under the French dominion of Canada, upon the Mississippi at Kaskaskia and other places, and these settlers were continued in possession of their lands upon the transfer of the country.*

On the 7th of May, 1800, it was included in the "Territory of Indiana," and under this organization the beginnings of settlements were made in the southern and western parts. In 1808 petitions were addressed to Congress for the division of the territory, and on the last day of that year the committee charged with the subject made a report favoring the request. In speaking of the reasons that operated in leading to the conclusions at which they arrived, they said :

"The great difficulty of traveling through an extensive and loathsome wilderness, the want of food and other accommodations on the road, often presents an insurmountable barrier to the attendance of witnesses; and even when their attendance is obtained, the accumulated expense of prosecuting suits where the evidence is at so remote a distance is a cause of much embarrassment to the due and impartial administration of justice, and a proper execution of the laws for the redress of private wrongs."

From the best information that the committee could obtain, there were at this time about 11,000 inhabitants west of the Wabash, and 17,000 east of that river; and the population in both sections was in a state of rapid increase. The only objection that could be raised was that of the increased expense which would attend the formation of a new territory; but the increased value that would be given to the public lands by the public institutions to be established in each, and the increase of wealth from immigration would, it was believed, far exceed the amount of expenditure which would be occasioned.

A bill was accordingly introduced for the division of the territory, which passed on the 3d of February, 1809, by which that portion of Indiana Territory west of the Wabash river, and of a line drawn due north from the said river at Post Vincennes to the boundary between the United States and Canada, was formed into a separate government as the "Territory of Illinois," with an organization similar to that formerly applied to the Territory northwest of the Ohio river, and its seat of government at Kaskaskia, on the Mississippi river.

Its first form of government, under the Governor and Judges, might be changed to that of a General Assembly whenever satisfactory evidence should be given to the Governor that such was the wish of a majority of the freeholders, notwithstanding there might not be five thousand male inhabitants of twenty-one years and upwards; but, until their number should equal that amount, the General Assembly was not to be less than seven, nor more than nine, who were to be apportioned among the counties upon the basis of free males of adult age.

* According to a report made to the old Congress, June 20, 1788, there was a French village of near eighty families near the mouth of the Kaskaskies river, twelve families in a small village at La Prairie du Rochas, and near fifty at the Kahokia village. There were also four or five families at Fort Chartres and St. Philippe, five miles further up the river. A resolution passed by that Congress, August 29, 1788, gave four hundred acres to the head of each family settled at Post St. Vincennes, and by an act of Congress under the Constitution, approved March 3, 1791, further provision was made for confirming the rights of such French colonists as had preferred to remain and become subjects of the United States.

Provision was made by an act, approved May 20, 1812, for extending the right of suffrage, upon changing from the first to the second grade. It gave the privilege to each free white male of the age of twenty-one, who might have paid a territorial tax, and who should have resided one year in the Territory, and be an actual resident in the district where he voted. The Legislature was to consist of a Legislative Council and a House of Representatives, and the Territory was to be thenceforth entitled to representation by a Delegate in Congress.

On the 18th of April, 1818, the inhabitants were authorized to form a State government. Its northern boundary was limited to the line of 42° 30' north latitude, the portion north of that line being attached to Michigan Territory. Its boundary on the side of Lake Michigan was fixed at the middle of the lake; on the Mississippi and the Wabash in the middle of the channel, and on the Ohio along its northwestern shore. An election of Delegates was to be held, beginning on the first Monday of July, and the Convention thus elected was to meet on the first Monday in August next following. They were first to determine whether or not it was expedient to form a State government at that time, and if for it, they might proceed to form one; or, if they deemed more expedient, the Convention might provide by ordinance, for electing Representatives to form a Constitution: *Provided*, That the same, whenever founded, shall be republican, and not repugnant to the ordinance of the 13th of July, 1787, . . . excepting so much of said articles as relate to the boundaries of the States therein to be formed: *And provided, also*, That it shall appear from the enumeration directed to be made by the Legislature of the said Territory, that there are within the proposed State not less than 40,000 inhabitants.

The Convention thus authorized assembled at Kaskaskia, the territorial capital, on the appointed day, and on the 26th of August agreed upon a Constitution, which was submitted to the people, and, being approved, the State was declared admitted into the Union by a joint resolution of Congress, approved December 3, 1818. An act to provide for the due execution of the laws of the United States within the State of Illinois was passed March 3, 1819.

The capital, under the territorial government, had been from the beginning at Kaskaskia; but in 1818 Vandalia was laid out as the State capital, and the seat of government remained there until 1840. It was then removed to Springfield, where it is now established.

Under the first Constitution, the General Assembly held biennial sessions. Senators were elected for a term of four years, one-half at each biennial election, and were not to be less than a third, nor more than a half of the Representatives in number. The latter were not to be less than twenty-seven, nor more than thirty-six in number, until the population exceeded one hundred thousand. Representation in both Houses was to be equalized once in five years, upon a census of white inhabitants. The elections were to be held on the first Monday of August on alternate years, and were to be *viva voce* until changed by law. All white male inhabitants twenty-one years old and upward, who had resided six months in the State, were allowed to vote in the districts where they resided.

A Governor and Lieutenant-Governor were elected for a term of four years. The Governor had the pardoning power after conviction, except in cases of impeachment; could fill vacancies in office, and, with the approbation of the Senate, could appoint the Secretary of State, and all officers not otherwise provided for by the Constitution. Laws, before their passage, were to be approved by the Governor and the Judges of the Supreme Court, or the major part of them; but, after being returned with objections, could be passed by a majority of those elected to both Houses. This feature, borrowed from the "Council of

Revision," in the New York Constitution of 1777, was continued until the revision of 1847-'48.

A Treasurer and a Public Printer were chosen biennially by the General Assembly, a Sheriff and Coroner were elected in each county by the people, and minor local officers as the General Assembly might direct.

The judicial power of the State was vested in a Supreme Court, to be held at the seat of government, and in such inferior courts as might be established by law. The Supreme Court had appellate jurisdiction only, except in cases relating to the revenue, in cases of *mandamus*, and in such cases of impeachment as might be required to be tried before it. The Senate was, however, vested with the power of trying impeachments in the usual form.

A Chief Justice, three Associate Justices (and more if their number should be increased after 1824), and Judges of the inferior courts, were to be appointed by a joint ballot of both branches of the General Assembly, and were to hold office during good behavior. In 1824 a new election was to be held, with like tenure. Justices of the Peace were to be appointed as the law might direct, and to be commissioned by the Governor. Militia officers were elected by their command, were commissioned by the Governor, and held office during good behavior, or until sixty years of age. A proposition was brought forward in 1823 for calling a Convention to revise the State Constitution, and submitted to a popular vote, with a decision adverse to the measure. A Convention was again called, pursuant to an act passed February 20, 1847, which met at Springfield June 7th, and adjourned August 31st of that year. They prepared a Constitution, which was approved by the people at an election held March 7th, 1848, and it went into operation on the first day of April of that year. Two articles were submitted separately, of which one, prohibiting the immigration of colored persons, was rejected, and the other, providing a two mill tax for the purpose of extinguishing the State debt, was adopted.

The Constitution of 1847-'48 changed the time of elections to the Tuesday after the first Monday of November, directed elections to be had by ballot, and extended the time required for residence to one year. The Senate was to consist of twenty-five members, and the House of seventy-five, until the population of the State should amount to a million, when five were to be added, and thereafter five to every increase of half a million, until it became one hundred.

Representation was to be based upon the white population, ascertained by a census taken in 1855, and decennially afterward, and upon the National census at intervals between. Senators were to be chosen by single districts, and not more than three Representatives could be chosen in one district. The veto power was given to the Governor alone, but bills returned by him with objections could still be passed by a majority of the members elected to both Houses.

A Secretary of State and an Auditor of Public Accounts were elected by the people, with a term of four years, and a State Treasurer for two years, and until a successor was elected and qualified.

The most important changes were made in the judiciary system, which consisted of a Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, with such inferior local courts as the General Assembly might establish in cities.

The State was to be divided as nearly evenly as possible into three Grand Divisions; one Judge was to be elected by the voters in each Division for a term of nine years, and after their first classification an election was to be held in one of the Divisions every three years. A session of the Supreme Court was to be held in each Grand Division annually, and the Judge having the oldest commission was to be Chief Justice.

The State was to be divided into nine Judicial Districts, in each of which a Judge was to be elected for a term of six years. At least two terms of the Circuit Court were to be held annually in each county. The number of Judicial Districts might be increased by law, and Justices and Judges were to be chosen at special elections.

A County Judge was to be elected in each county for a term of four years, with such probate and other jurisdiction as might be prescribed by law, where the punishment was by fine only, not exceeding \$100. Justices of the Peace were to be elected in each county with a term of four years.

In each Judicial Circuit there was to be elected a State's Attorney, with a term of four years, but the General Assembly might provide for the election of County Attorneys in lieu of State's Attorneys. Clerks of the several courts were elected by the voters of their districts.

The terms of militia officers were to be regulated by law. Articles relating to Revenue, Corporations, Commons, and Public Debt were added to the Constitution.

An act providing for the calling of a Constitutional Convention in Illinois was again passed, January 31, 1861. The election was to be held at the annual November election. The Convention met at Springfield on the appointed day, January 7, 1861, and adjourned March 24, after presenting a form of Constitution to the voters of the State for their approval or rejection. This was submitted at an election held on the Tuesday after the first Monday of June, 1862, at which the whole Constitution, and articles relating to "banks and currency," "negroes and mulattoes" (in three separate sections), and "congressional apportionment," were voted upon, and the whole disapproved. The vote upon the Constitution was :

For the new Constitution.....	126,739
Against.....	151,264

The vote upon the question of banks and currency was :

For prohibiting banks.....	131,747
Against	133,797

The vote upon the three sections relating to negroes and mulattoes was as follows :

For excluding them from the State.....	178,252
Against	73,287
For granting them suffrage, or right of office.....	37,548
Against	211,405
For the enactment of laws to prohibit them from coming into or voting in the State.....	198,938
Against.....	44,414
For Congressional apportionment.....	127,900
Against.....	138,148

These figures include the soldiers' votes, which stood 1,687 *for*, and 10,151 *against*, the Constitution ; and 2,160 *for*, and 5,178 *against*, the proposed mode of apportionment.

The vote upon the Constitution of 1862 was strictly partisan — the Democratic party favoring, and the Republican party opposing, it.

An act was passed June 19, 1869, providing for the election of delegates in November, to meet on the second Monday of December, 1869, to revise the State Constitution.

The Convention met as appointed, and on the 18th of May, 1870, agreed upon the Constitution given in our text. It was ratified by the people at an election held July 2, 1870, at which each one of the eight questions separately submitted was also approved. The vote was as follows:

For the new Constitution.....	134,227
Against.....	35,443
Majority for.....	98,784
For the sections relating to railroads, in the article entitled "Corporations".....	144,750
Against.....	23,525
Majority for.....	121,225
For the article entitled "Counties".....	136,815
Against.....	31,644
Majority for.....	105,171
For the article entitled "Warehouses".....	143,533
Against.....	22,702
Majority for.....	120,831
For a three-fifths vote to remove county seats.....	127,077
Against.....	41,417
Majority for.....	85,660
For the section relating to the Illinois Central Railroad.....	147,032
Against.....	21,310
Majority for.....	125,722
For the section relating to minority representation.....	99,092
Against.....	70,080
Majority for.....	29,012
For the section relating to municipal subscriptions to rail- roads or private corporations.....	134,114
Against.....	34,061
Majority for.....	100,053
For the section relating to the canal.....	142,540
Against.....	27,017
Majority for.....	115,523

CONSTITUTION OF ILLINOIS, 1870.

SUMMARY.

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- I. Boundaries.
- II. Bill of Rights.
- III. Distribution of Powers.
- IV. Legislative Department.
- V. Executive Department.
- VI. Judicial Department.
- VII. Suffrage.
- VIII. Education.
- IX. Revenue.
- X. Counties.
- XI. Corporations.
- XII. Militia.
- XIII. Warehouses.
- XIV. Amendments to the Constitution — sections separately submitted.

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6. Exemption from illegal seizures and searches.
7. Right of bail — writ of *habeas corpus*.
8. Indictments by grand jury — may be abolished by law.
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10. Witness against one's self — second trial.
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12. Imprisonment for debt not allowed.
13. Private property, when taken for public use.
14. *Ex post facto* laws forbidden — irrevocable grants.
15. Military to be subordinate to civil power.
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6. Senatorial Districts to be formed — based on Federal census — fifty-three Senators.

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7. Based upon Federal census — each county to have at least one Representative — districts — increase in 1880 and afterward.
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9. Sessions, when to begin — quorum — powers of each House — organization — expulsion — other punishment — power over persons not members.
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11. Style of laws.
12. Bills may originate in either House — amendments to be passed by yeas and nays — majority must approve.
13. Passage of bills — signature — to embrace but one subject — when to take effect.

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14. Privilege of members.
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17. Moneys to be drawn from treasury only by law — to be for specific object — statement to be published.
18. Current expenses of the State to be provided for — not to be increased without a two-thirds vote — casual deficiencies — limit of debts — exceptional cases — special votes — how published.
19. Extra compensation forbidden — suppression of insurrections, etc.
20. State credit not to be loaned or given.

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24. Power, how vested — how tried — conviction — liability to prosecution by law.

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25. Printing, fuel and other expenses to be let to lowest bidder.
26. State not to be made defendant in any suit.
27. Lotteries and gift enterprises forbidden.
28. Term of offices not to be extended by law.
29. Laws for protection of miners — security of coal mines.

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6. Supreme executive power vested in Governor.
7. Messages—report of accounts—estimates.
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9. Power to adjourn General Assembly.
10. Appointing power.
11. Appointment to fill vacancies—rejected persons not to be appointed.
12. Power to remove officers.
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14. County Courts—election of Judges.
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18. Election of County Judges and Clerks—districts may be formed—jurisdiction.
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20. To be established in each county of over 50,000 inhabitants—election of Judges.

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23. County to be one circuit—five Judges—present Judges—number may be increased.
24. Chief Justice—classification.
25. Salaries of Judges and State's Attorney.
26. Recorder's Court continued—jurisdiction—terms of Criminal Court.
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32. Judges to hold until successors qualify—vacancies, how filled.
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7. Taxes to be paid into State treasury.
8. Limit of county taxation—vote, when to be taken.

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9. Power of local taxation, limited.
10. Taxation for corporate purposes — municipal taxation.
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6. Board of County Commissioners.
7. Commissioners of Cook county.

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8. County officers enumerated — election — term.
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8. Registry and countersigning of bank bills — deposits — record of stockholders.

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16. Apportionment of Senate and House.
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20. Circuit Clerks in certain counties to be *ex officio* Recorders for a term.
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22. Term of present Judge of Cook county.
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PREAMBLE.

We, the people of the State of Illinois, grateful to Almighty God for the civil, political and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the State of Illinois.

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the State shall be as follows, to wit: beginning at the mouth of the Wabash river, thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east with the line of the same State, to the middle of Lake Michigan; thence north along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi river, and thence down along the middle of that river to its confluence with the Ohio river, and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, that this State shall exercise such jurisdiction upon the Ohio river, as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property, without due process of law.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affir-

mations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

§ 4. Every person may freely speak, write and publish, on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives, and for justifiable ends, shall be a sufficient defense.

§ 5. The right of trial by jury as heretofore enjoyed shall remain inviolate; but the trial of civil cases before Justices of the Peace by a jury of less than twelve men may be authorized by law.

§ 6. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

§ 7. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

§ 8. No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger: *Provided*, That the grand jury may be abolished by law in all cases.

§ 9. In all criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 10. No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offense.

§ 11. All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture

of estate; nor shall any person be transported out of the State for any offense committed within the same.

§ 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

§ 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

§ 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

§ 15. The military shall be in strict subordination to the civil power.

§ 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their Representatives, and to apply for redress of grievances.

§ 18. All elections shall be free and equal.

§ 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

§ 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the Government of this State are divided into three distinct Departments: the Legislative, Executive and Judicial; and no person, or collection of persons, being one of these Departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

ELECTION.

§ 2. An election for members of the General Assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either House, the Governor, or person exercising the powers of Governor, shall issue writs of election to fill such vacancies.

ELIGIBILITY AND OATH.

§ 3. No person shall be a Senator who shall not have attained the age of twenty-five years, or a Representative who shall not have attained the age of twenty-one years. No person shall be a Senator or Representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No Judge or Clerk of any Court, Secretary of State, Attorney-General, State's Attorney, Recorder, Sheriff, or Collector of Public Revenue, member of either House of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the General Assembly: *Provided*, That appointments in the militia and the offices of Notary Public and Justice of the Peace shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States (except Postmasters whose annual compensation does not exceed the sum of three hundred dollars), hold any office of honor or profit under the authority of this State.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the General Assembly, or to any office of profit or trust in this State.

§ 5. Members of the General Assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability; and that I have not, knowingly or intentionally, paid or contributed any thing, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act." This oath shall be administered by a Judge of the Supreme or Circuit Court in the Hall of the House to which the member is elected, and the Secretary of State shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office, and be disqualified thereafter from holding any office of profit or trust in this State.

APPORTIONMENT.

SENATORIAL.

§ 6. The General Assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-one, by dividing the population of the State, as ascertained by the Federal census, by the number fifty-one, and the quotient shall be the ratio of representation in the Senate. The State shall be divided into fifty-one Senatorial Districts, each of which shall elect one Senator, whose term of office shall be four years. The Senators elected in the year of our Lord one thousand eight hundred and seventy-two in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers at the end of four years; and vacancies occurring by the expiration of term shall be filled by the election of Senators for the full term. Senatorial Districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the Senatorial ratio. Counties containing not less than the ratio and three-fourths, may be divided into

separate districts, and shall be entitled to two Senators, and to one additional Senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

REPRESENTATIVE.

[§ 7.¹ The population of the State, as ascertained by the Federal census, shall be divided by the number one hundred and fifty-three, and the quotient shall be the ratio of representation in the House of Representatives. Every county or district shall be entitled to one Representative, when its population is three-fifths of the ratio; if any county has less than three-fifths of the ratio it shall be attached to the adjoining county having the least population, to which no other county has for the same reason been attached, and the two shall constitute a separate district. Every county or district having a population not less than the ratio and three-fifths shall be entitled to two Representatives, and for each additional number of inhabitants equal to the ratio, one Representative. Counties having over two hundred thousand inhabitants may be divided into districts, each entitled to not less than three nor more than five Representatives. After the year one thousand eight hundred and eighty, the whole population shall be divided by the number one hundred and fifty-nine, and the quotient shall be the ratio of representation in the House of Representatives for the ensuing ten years, and six additional Representatives shall be added for every five hundred thousand increase of population at each decennial census thereafter, and be apportioned in the same manner as above provided.

§ 8. When a county or district shall have a fraction of population above what shall entitle it to one Representative, or more, according to the provisions of the foregoing section, amounting to one-fifth of the ratio, it shall be entitled to one additional Representative in the fifth term of each decennial period; when such fraction is two-fifths of the ratio, it shall be entitled to an additional Representative in the fourth and fifth terms of said periods; when the fraction is three-fifths of the ratio, it shall be entitled to an additional Representative in the first, second and third terms, respectively; when the fraction is four-fifths of the ratio, it shall be entitled to an additional Representative in the first, second, third and fourth terms, respectively.]

TIME OF MEETING AND GENERAL RULES.

§ 9. The sessions of the General Assembly shall commence at twelve o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this Constitution. A

¹ The question of minority representation having been approved, the section thus entitled, on pages 324 and 325 is declared in the schedule to be substituted for sections 7 and 8.

majority of the members elected to each House shall constitute a quorum. Each House shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its members; shall choose its own officers; and the Senate shall choose a temporary President to preside when the Lieutenant-Governor shall not attend as President or shall act as Governor. The Secretary of State shall call the House of Representatives to order at the opening of each new Assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either House, except by a vote of two-thirds of all the members elected to that House, and no member shall be twice expelled for the same offense. Each House may punish by imprisonment any person, not a member, who shall be guilty of disrespect to the House by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours, at one time, unless the person shall persist in such disorderly or contemptuous behavior.

§ 10. The doors of each House and of Committees of the Whole shall be kept open, except in such cases as, in the opinion of the House, require secrecy. Neither House shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two Houses shall be sitting. Each House shall keep a journal of its proceedings, which shall be published. In the Senate at the request of two members, and in the House at the request of five members, the yeas and nays shall be taken on any question, and entered upon the journal. Any two members of either House shall have liberty to dissent from, and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

STYLE OF LAWS AND PASSAGE OF BILLS.

§ 11. The style of the laws of this State shall be: "*Be it enacted by the People of the State of Illinois represented in the General Assembly.*"

§ 12. Bills may originate in either House, but may be altered, amended or rejected by the other; and on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each House.

§ 13. Every bill shall be read at large, on three different days, in each House; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both Houses, shall be signed by the Speakers thereof. No

act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But, if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived or the section amended shall be inserted at length in the new act. And no act of the General Assembly shall take effect until the first day of July next after its passage, unless, in case of emergency (which emergency shall be expressed in the preamble or body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each House, otherwise direct.

PRIVILEGES AND DISABILITIES.

§ 14. Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

§ 15. No person elected to the General Assembly shall receive any civil appointment within this State from the Governor, the Governor and Senate, or from the General Assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the General Assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

PUBLIC MONEYS AND APPROPRIATIONS.

§ 16. The General Assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the General Assembly, and for the salaries of the officers of the Government, shall contain no provision on any other subject.

§ 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the Auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The Auditor shall, within sixty days after the adjournment of each session of the General Assembly, prepare and publish a full statement of all money expended

at such session, specifying the amount of each item, and to whom and for what paid.

§ 18. Each General Assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the Government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each House, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury, from funds belonging to the State, shall end with such fiscal quarter: *Provided*, The State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate two hundred and fifty thousand dollars; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of the votes cast for members of the General Assembly at such election. The General Assembly shall provide for the publication of said law, for three months, at least, before the vote of the people shall be taken upon the same; and provisions shall be made at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrevocable until such debt be paid: *And provided, further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

§ 19. The General Assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, The General Assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 20. The State shall never pay, assume, or become responsible for the debts or liabilities of, or in any manner give, loan or extend its credit to or in aid of, any public or other corporation, association or individual.

PAY OF MEMBERS.

§ 21. The members of the General Assembly shall receive for their services the sum of five dollars per day, during the first session held under this Constitution, and ten cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the Auditor of Public Accounts, and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the General Assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the General Assembly shall be certified by the Speakers of their respective Houses, and entered on the journals, and published at the close of each session.

SPECIAL LEGISLATION PROHIBITED.

§ 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for

- Granting Divorces;
- Changing the names of persons or places;
- Laying out, opening, altering and working roads or highways;
- Vacating roads, town plats, streets, alleys, and public grounds;
- Locating or changing county seats;
- Regulating county and township affairs;
- Regulating the practice in Courts of Justice;
- Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates and Constables;
- Providing for changes of venue in civil and criminal cases;
- Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village;
- Providing for the election of members of the Board of Supervisors in townships, incorporated towns or cities;
- Summoning and impaneling grand or petit juries;
- Providing for the management of common schools;
- Regulating the rate of interest on money;
- The opening and conducting of any election, or designating the place of voting;
- The sale or mortgage of real estate belonging to minors or others under disability;
- The protection of game or fish;

Chartering or licensing ferries or toll bridges ;

Remitting fines, penalties or forfeitures ;

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed ;

Changing the law of descent ;

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose ;

Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted.

§ 23. The General Assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any municipal corporation therein.

IMPEACHMENT.

§ 24. The House of Representatives shall have the sole power of impeachment ; but a majority of all the members elected must concur therein. All impeachments shall be tried by the Senate ; and when sitting for that purpose, the Senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the Governor of the State is tried, the Chief Justice shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected. But judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

MISCELLANEOUS.

§ 25. The General Assembly shall provide, by law, that the fuel, stationery, and printing paper furnished for the use of the State, the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the General Assembly, shall be let by contract to the lowest responsible bidder ; but the General Assembly shall fix a maximum price, and no member thereof or other officer of the State shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the Governor, and if he disapprove the same, there shall be a re-letting of the contract in such manner as shall be prescribed by law.

§ 26. The State of Illinois shall never be made defendant in any court of law or equity.

§ 27. The General Assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

§ 29. It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement-shafts or such other appliances as may secure safety in all coal-mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

§ 30. The General Assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

§ 31. The General Assembly may pass laws permitting the owners or occupants of lands to construct drains and ditches, for agricultural and sanitary purposes, across the lands of others.

§ 32. The General Assembly shall pass liberal homestead and exemption laws.

§ 33. The General Assembly shall not appropriate out of the State Treasury, or expend on account of the new Capitol grounds, and construction, completion and furnishing of the State-house, a sum exceeding, in the aggregate, three and a half millions of dollars, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State, at a general election, nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Superintendent of Public Instruction, and Attorney-General, who shall each, with the exception of the Treasurer, hold his office for the term of four years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the Lieutenant-Governor, reside at the seat of Government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

§ 2. The Treasurer shall hold his office for the term of two years, and until his successor is elected and qualified, and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the Governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

ELECTION.

§ 3. An election for Governor, Lieutenant-Governor, Secretary of State, Auditor of Public Accounts, and Attorney-General, shall be held on the Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter; for Superintendent of Public Instruction, on the Tuesday next after the first Monday of November, in the year one thousand eight hundred and seventy, and every four years thereafter: and for Treasurer, on the day last above mentioned and every two years thereafter, at such places and in such manner as may be prescribed by law.

§ 4. The returns of every election for the above named officers shall be sealed up and transmitted, by the returning officers, to the Secretary of State, directed to "The Speaker of the House of Representatives," who shall, immediately after the organization of the House, and before proceeding to other business, open and publish the same in the presence of a majority of each House of the General Assembly, who shall, for that purpose, assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest, number of votes, the General Assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both Houses of the General Assembly, by joint ballot, in such manner as may be prescribed by law.

ELIGIBILITY.

§ 5. No person shall be eligible to the office of Governor or Lieutenant-Governor who shall not have attained the age of thirty years, and been for five years next preceding his election a citizen of the United States and of this State. Neither the Governor, Lieutenant-Governor, Auditor of Public Accounts, Secretary of State, Superintendent of Public Instruction nor Attorney-General shall be eligible to any other office during the period for which he shall have been elected.

GOVERNOR.

§ 6. The supreme Executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

§ 7. The Governor shall, at the commencement of each session, and at the close of his term of office, give to the General Assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

§ 8. The Governor may, on extraordinary occasions, convene the General Assembly by proclamation, stating therein the purpose for which they are convened; and the General Assembly shall enter upon no business except that for which they were called together.

§ 9. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor may, on the same being certified to him by the House first moving the adjournment, adjourn the General Assembly to such time as he thinks proper, not beyond the first day of the next regular session.

§ 10. The Governor shall nominate, and, by and with the advice and consent of the Senate (a majority of all the Senators elected concurring, by yeas and nays), appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly.

§ 11. In case of a vacancy, during a recess of the Senate, in any office which is not elective, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate (a majority of all the Senators elected concurring, by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the General Assembly.

§ 12. The Governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy.

§ 13. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor.

§ 14. The Governor shall be Commander-in-Chief of the military and naval forces of the State (except when they shall be called into the service of the United States); and may call out the same to execute the laws, suppress insurrection and repel invasion.

§ 15. The Governor and all civil officers of the State shall be liable to impeachment for any misdemeanor in office

VETO.

§ 16. Every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the House in which it shall have originated, which House shall enter the objections at large upon its journal, and proceed to reconsider the bill. If, then, two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that House, it shall become a law, notwithstanding the objections of the Governor. But in all such cases the vote of each House shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him shall become a law in like manner as if he had signed it, unless the General Assembly shall, by their adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the Secretary of State, within ten days after such adjournment, or become a law.

LIEUTENANT-GOVERNOR.

§ 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.

§ 18. The Lieutenant-Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a President *pro tempore*, to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor.

§ 19. If there be no Lieutenant-Governor, or if the Lieutenant-Governor shall, for any of the causes specified in section seventeen of this article, become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives.

OTHER STATE OFFICERS.

§ 20. If the office of Auditor of Public Accounts, Treasurer, Secretary of State, Attorney-General or Superintendent of Public Instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the Executive Department, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources and for every service performed, and a semi-annual report thereof be made to the Governor, under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly.

§ 21. The officers of the Executive Department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such report to the General Assembly, together with the reports of the Judges of the Supreme Court, of defects in the Constitution and laws; and the Governor may at any time require information in writing, under oath, from the officers of the Executive Department and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices.

THE SEAL OF STATE.

§ 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the Secretary of State, and used by him, officially, as directed by law.

FEEES AND SALARIES.

§ 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the

expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the Constitution, shall be paid in advance into the State treasury.

DEFINITION AND OATH OF OFFICE.

§ 24. An office is a public position, created by the Constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

§ 25. All civil officers, except members of the General Assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation :

“I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of —— according to the best of my ability.”

And no other oath, declaration or test shall be required as a qualification.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one Supreme Court, Circuit Courts, County Courts, Justices of the Peace, Police Magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

SUPREME COURT.

§ 2. The Supreme Court shall consist of seven Judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus* and *habeas corpus*, and appellate jurisdiction in all other cases. One of said Judges shall be Chief Justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

§ 3. No person shall be eligible to the office of Judge of the Supreme Court unless he shall be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the district in which he shall be elected.

§ 4. Terms of the Supreme Court shall continue to be held in the present Grand Divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the Northern Division, in the city of Chicago, each year, at such times as said court may appoint, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased or diminished in number, and the times and places of holding said court may be changed by law.

§ 5. The present Grand Divisions shall be preserved and be denominated Southern, Central and Northern, until otherwise provided by law. The State shall be divided into seven districts for the election of Judges, and, until otherwise provided by law, they shall be as follows:

First District.—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun and Christian.

Third District.—The counties of Sangamon, Macon, Logan, DeWitt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy and Woodford.

Sixth District.—The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee and Du Page.

The boundaries of the districts may be changed at the session of the General Assembly next preceding the election for Judges therein, and at no other time; but whenever such alteration shall be made, the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed

of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any Judge.

§ 6. At the time of voting on the adoption of this Constitution, one Judge of the Supreme Court shall be elected by the electors thereof in each of said districts numbered two, three, six and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord one thousand eight hundred and seventy. The term of office of Judges of the Supreme Court, elected after the adoption of this Constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the Judges in office at the adoption of this Constitution, or of the Judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such Judges, in the respective districts wherein the term of such Judges shall expire. The Chief Justice shall continue to act as such until the expiration of the term for which he was elected, after which the Judges shall choose one of their number Chief Justice.

§ 7. From and after the adoption of this Constitution, the Judges of the Supreme Court shall each receive a salary of four thousand dollars per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the Judges in office shall not be increased or diminished during the terms for which said Judges shall have been elected.

§ 8. Appeals and writs of error may be taken to the Supreme Court, held in the Grand Division in which the case is decided, or, by consent of the parties, to any other Grand Division.

§ 9. The Supreme Court shall appoint one Reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

§ 10. At the time of the election for Representatives in the General Assembly, happening next preceding the expiration of the terms of office of the present Clerks of said court, one Clerk of said court for each Division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor; and every six years thereafter one Clerk of said court for each Division shall be elected.

APPELLATE COURTS.

§ 11. After the year of our Lord one thousand eight hundred and seventy-four, inferior Appellate Courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to

which such appeals and writs of error as the General Assembly may provide may be prosecuted from Circuit and other courts, and from which appeals and writs of error shall lie to the Supreme Court, in all criminal cases, and cases in which a franchise or freehold, or the validity of a statute, is involved, and in such other cases as may be provided by law. Such Appellate Courts shall be held by such number of Judges of the Circuit Courts, and at such times and places, and in such manner, as may be provided by law; but no Judge shall sit in review upon cases decided by him; nor shall said Judges receive any additional compensation for such services.

CIRCUIT COURTS.

§ 12. The Circuit Courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of Judges of Circuit Courts shall be six years.

§ 13. The State, exclusive of the county of Cook and other counties having a population of one hundred thousand, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present Judges of the Circuit Courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population, and shall not exceed in number one circuit for every one hundred thousand of population in the State. One Judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed, and the boundaries of circuits changed by the General Assembly at its session next preceding the election for Circuit Judges, but at no other time: *Provided*, That the circuits may be equalized or changed at the first session of the General Assembly after the adoption of this Constitution. The creation, alteration or change of any circuit shall not affect the tenure in office of any judge. Whenever the business of the Circuit Court of any one or of two or more contiguous counties, containing a population exceeding fifty thousand, shall occupy nine months of the year, the General Assembly may make of such county or counties a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

§ 14. The General Assembly shall provide for the times of holding court in each county, which shall not be changed, except by the General Assembly next preceding the general election for Judges of said courts, but additional terms may be provided for in any county. The election for Judges of the Circuit Courts shall be held on the

first Monday in June, in the year of our Lord one thousand eight hundred and seventy-three, and every six years thereafter.

§ 15. The General Assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided for in section thirteen of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four Judges, who shall hold the Circuit Courts in the circuit for which they shall be elected, in such manner as may be provided by law.

§ 16. From and after the adoption of this Constitution, Judges of the Circuit Courts shall receive a salary of three thousand dollars per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or diminished during the terms for which said Judges shall be, respectively, elected; and, from and after the adoption of this Constitution, no Judge of the Supreme or Circuit Court shall receive any other compensation, perquisite or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

§ 17. No person shall be eligible to the office of Judge of the Circuit or any inferior court, or to membership in the "Board of County Commissioners," unless he shall be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities or incorporated town in which he shall be elected.

COUNTY COURTS.

§ 18. There shall be elected in and for each county, one County Judge and one Clerk of the County Court, whose term of office shall be four years. But the General Assembly may create districts of two or more contiguous counties, in each of which shall be elected one Judge, who shall take the place of and exercise the powers and jurisdiction of County Judges in such districts. County Courts shall be Courts of Record, and shall have original jurisdiction in all matters of probate; settlement of estates of deceased persons; appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices; and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

§ 19. Appeals and writs of errors shall be allowed from final determinations of County Courts, as may be provided by law.

PROBATE COURTS.

§ 20. The General Assembly may provide for the establishment of a Probate Court in each county having a population of over fifty thousand, and for the election of a Judge thereof, whose term of office shall be the same as that of the County Judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlements of their accounts, in all matters relating to apprentices, and in cases of the sales of real estate of deceased persons for the payment of debts.

JUSTICES OF THE PEACE AND CONSTABLES.

§ 21. Justices of the Peace, Police Magistrates and Constables shall be elected in and for such districts as are or may be provided by law, and the jurisdiction of such Justices of the Peace and Police Magistrates shall be uniform.

STATE'S ATTORNEYS.

§ 22. At the election for members of the General Assembly, in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter, there shall be elected a State's Attorney in and for each county, in lieu of the State's Attorneys now provided by law, whose term of office shall be four years.

COURTS OF COOK COUNTY.

§ 23. The county of Cook shall be one Judicial Circuit. The Circuit Court of Cook county shall consist of five Judges, until their number shall be increased, as herein provided. The present Judge of the Recorder's Court of the city of Chicago, and the present Judge of the Circuit Court of Cook county, shall be two of said Judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The Superior Court of Chicago shall be continued, and called the Superior Court of Cook county. The General Assembly may increase the number of said Judges, by adding one to either of said courts for every additional fifty thousand inhabitants in said county, over and above a population of four hundred thousand. The terms of office of the Judges of said courts hereafter elected shall be six years.

§ 24. The Judge having the shortest unexpired term shall be Chief Justice of the court of which he is a Judge. In case there are two or

more whose terms expire at the same time, it may be determined by lot which shall be Chief Justice. Any Judge of either of said courts shall have all the powers of a Circuit Judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

§ 25. The Judges of the Superior and Circuit Courts and the State's Attorney in said county shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the Circuit Judges and State's Attorneys of the State, and such further compensation, to be paid by the county of Cook, as is or may be provided by law; such compensation shall not be changed during their continuance in office.

§ 26. The Recorder's Court of the city of Chicago shall be continued, and shall be called the "Criminal Court of Cook county." It shall have the jurisdiction of a Circuit Court, in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said Criminal Court of Cook county shall be held by one or more of the Judges of the Circuit or Superior Court of Cook county, as nearly as may be in alternation, as may be determined by said Judges or provided by law. Said Judges shall be, *ex officio*, Judges of said court.

§ 27. The present Clerk of the Recorder's Court of the city of Chicago shall be the Clerk of the Criminal Court of Cook county, during the term for which he was elected. The present Clerks of the Superior Court of Chicago, and the present Clerk of the Circuit Court of Cook county shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one Clerk of the Superior Court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

§ 28. All Justices of the Peace in the city of Chicago shall be appointed by the Governor, by and with the advice and consent of the Senate (but only upon the recommendation of a majority of the Judges of the Circuit, Superior and County Courts), and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the Circuit or Superior Court for extortion or

other malfeasance. Existing Justices of the Peace and Police Magistrates may hold their offices until the expiration of their respective terms.

GENERAL PROVISIONS.

§ 29. All judicial officers shall be commissioned by the Governor. All laws relating to courts shall be general and of uniform operation; and the organization, jurisdiction, powers, proceedings and practice of all courts, of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments and decrees of such courts, severally, shall be uniform.

§ 30. The General Assembly may, for cause entered on the journals, upon due notice and opportunity of defense, remove from office any Judge, upon concurrence of three-fourths of all the members elected, of each House. All other officers in this article mentioned shall be removed from office on prosecution and final conviction for misdemeanor in office.

§ 31. All Judges of Courts of Record, inferior to the Supreme Court, shall, on or before the first day of June of each year, report in writing to the Judges of the Supreme Court such defects and omissions in the laws as their experience may suggest; and the Judges of the Supreme Court shall, on or before the first day of January of each year, report in writing to the Governor such defects and omissions in the Constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the Judges of the several Circuit Courts shall report to the next General Assembly the number of days they have held court in the several counties composing their respective circuits the preceding two years.

§ 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is or may be provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of Judges, by the Governor; of Clerks of Courts, by the Court to which the office appertains, or by the Judge or Judges thereof; and of all such other offices, by the Board of Supervisors or Board of County Commissioners, in the county where the vacancy occurs.

§ 33. All process shall run, *In the name of the People of the State of Illinois*; and all prosecutions shall be carried on *In the name and by the authority of the People of the State of Illinois*, and conclude, *Against the peace and dignity of the same*. "Population," wherever used in this article, shall be determined by the next preceding census of this State or of the United States.

ARTICLE VII.

SUFFRAGE.

SECTION 1. Every person having resided in this State one year, in the county ninety days, and in the election district thirty days next preceding any election therein, who was an elector in this State on the first day of April, in the year of our Lord one thousand eight hundred and forty-eight, or obtained a certificate of naturalization before any Court of Record in this State prior to the first day of January, in the year of our Lord one thousand eight hundred and seventy, or who shall be a male citizen of the United States, above the age of twenty-one years, shall be entitled to vote at such election.

§ 2. All votes shall be by ballot.

§ 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in the time of war or public danger.

§ 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States or of this State, or in the military or naval service of the United States.

§ 5. No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed therein.

§ 6. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

§ 7. The General Assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

ARTICLE VIII.

EDUCATION.

SECTION 1. The General Assembly shall provide a thorough and efficient system of free schools, whereby all the children of this State may receive a good common school education.

§ 2. All lands, moneys or other property, donated, granted or received for school, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

§ 3. Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund whatever any thing, in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the State or any such public corporation to any church or for any sectarian purpose.

§ 4. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used, in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the General Assembly.

§ 5. There may be a County Superintendent of Schools in each county, whose qualifications, powers, duties, compensation, and time and manner of election, and term of office, shall be prescribed by law.

ARTICLE IX.

REVENUE.

SECTION 1. The General Assembly shall provide such revenue as may be needful, by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property — such value to be ascertained by some person or persons, to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise; but the General Assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, inn-keepers, grocery-keepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business, venders of patents, and persons or corporations, owning or using franchises and privileges, in such manner as it shall, from time to time, direct by general law, uniform as to the class upon which it operates.

§ 2. The specification of the objects and subjects of taxation shall not deprive the General Assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this Constitution.

§ 3. The property of the State, counties and other municipal corpo-

rations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for schools, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate, incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

§ 4. The General Assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for State, county, municipal or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of the said property for any of said taxes or assessments, but by said officer, upon the order or judgment of some court of record.

§ 5. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the General Assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, That occupants shall in all cases be served with personal notice before the time of redemption expires.

§ 6. The General Assembly shall have no power to release or discharge any county, city, township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 7. All taxes levied for State purposes shall be paid into the State treasury.

§ 8. County authorities shall never assess taxes, the aggregate of which shall exceed seventy-five cents per one hundred dollars, valuation, except for the payment of indebtedness existing at the adoption of this Constitution, unless authorized by a vote of the people of the county.

§ 9. The General Assembly may vest the corporate authorities of cities, towns and villages with power to make local improvement by special assessment or by special taxation of contiguous property, or otherwise. For all other corporate purposes all municipal corporations may be vested with authority to assess and collect taxes; but

such taxes shall be uniform, in respect to persons and property within the jurisdiction of the body imposing the same.

§ 10. The General Assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes; but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

§ 11. No person who is in default as collector or custodian of money or property belonging to a municipal corporation shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office shall be increased or diminished during such term.

§ 12. No county, city, township, school district or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness. Any county, city, school district or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

This section shall not be construed to prevent any county, city, township, school district or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this Constitution, in pursuance of any law providing therefor.

ARTICLE X.

COUNTIES.

SECTION 1. No new county shall be formed or established by the General Assembly, which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less con-

tents; nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

§ 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

§ 3. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay its proportion of, the indebtedness of the county from which it has been taken.

COUNTY SEATS.

§ 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and [two-thirds¹] of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point: and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days, next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years to a vote of the people. [But when an attempt is made to remove the county seat to a point nearer to the center of the county, then a majority vote only shall be necessary.²]

COUNTY GOVERNMENT.

§ 5. The General Assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of the said county by the Board of County Commissioners may be dispensed with, and the affairs of said county may be transacted in such manner as the General Assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in

¹ In place of "a majority," as first submitted by Convention.

² The sentence in brackets was added, upon a separate vote by the people.

such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

§ 6. At the first election of County Judges under this Constitution there shall be elected in each of the counties in this State, not under township organization, three officers, who shall be styled "The Board of County Commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said Commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

§ 7. The county affairs of Cook county shall be managed by a Board of Commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

COUNTY OFFICERS AND THEIR COMPENSATION.

§ 8. In each county there shall be elected the following county officers: County Judge, Sheriff, County Clerk, Clerk of the Circuit Court (who may be, *ex officio*, Recorder of Deeds, except in counties having sixty thousand and more inhabitants, in which counties a Recorder of Deeds shall be elected at the general election in the year of our Lord one thousand eight hundred and seventy-two), Treasurer, Surveyor, and Coroner, each of whom shall enter upon the duties of his office, respectively, on the first Monday of December after their election; and they shall hold their respective offices for the term of four years, except the Treasurer, Sheriff, and Coroner, who shall hold their offices for two years, and until their successors shall be elected and qualified.

§ 9. The Clerks of all the Courts of Record, the Treasurer, Sheriff, Coroner, and Recorder of Deeds of Cook county, shall receive, as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a Judge of the Circuit Court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the Circuit Court, to be entered of record, and their compensation shall be determined by the County Board.

§ 10. The County Board, except as provided in section nine of this

article, shall fix the compensation of all county officers, with the amount of their necessary clerk-hire, stationery, fuel and other expenses, and, in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than fifteen hundred dollars, in counties not exceeding twenty thousand inhabitants; two thousand dollars in counties containing twenty thousand and not exceeding thirty thousand inhabitants; twenty-five hundred dollars in counties containing thirty thousand and not exceeding fifty thousand inhabitants; three thousand dollars in counties containing fifty thousand and not exceeding seventy thousand inhabitants; thirty-five hundred dollars in counties containing seventy thousand and not exceeding one hundred thousand inhabitants; and four thousand dollars in counties containing over one hundred thousand and not exceeding two hundred and fifty thousand inhabitants; and not more than one thousand dollars additional compensation for each additional one hundred thousand inhabitants: *Provided*, That the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

§ 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this Constitution, and such officers shall receive only such fees as are provided by general law.

§ 12. All laws fixing the fees of State, county and township officers shall terminate with the terms, respectively, of those who may be in office at the meeting of the first General Assembly after the adoption of this Constitution; and the General Assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the General Assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class.

This article shall not be construed as depriving the General Assembly of the power to reduce the fees of existing officers.

§ 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this Constitution takes effect, shall thereafter have no validity or effect whatever.

§ 3. The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors, multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

§ 4. No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

BANKS.

§ 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock company or association for banking purposes, now created, or to be hereafter created. No act of the General Assembly authorizing or creating corporations or associations, with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

§ 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his

or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

§ 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association, now or which may hereafter be organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath, by one or more of its officers), as may be provided by law.

§ 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require security, to the full amount thereof, to be deposited with the State Treasurer, in United States or Illinois State stocks, to be rated at ten per cent below their par value; and in case of the depreciation of said stocks to the amount of ten per cent below par, the bank or banks owning said stocks shall be required to make up said deficiency, by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

RAILROADS.

§ 9. Every railroad corporation organized or doing business in this State under the laws or authority thereof shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the Auditor of Public Accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the General Assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

§ 10. The rolling stock, and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the General Assembly shall pass no law exempting any such property from execution and sale.

§ 11. No railroad corporation shall consolidate in stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation now incorporated or hereafter to be incorporated by the laws of this State shall be citizens and residents of this State.

§ 12. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared Public Highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the General Assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

§ 13. No railroad corporation shall issue any stock or bonds, except for money, labor or property actually received and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

§ 14. The exercise of the power, and the right of eminent domain, shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

§ 15. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

ARTICLE XII.

MILITIA.

SECTION 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five, except such persons as now are or hereafter may be exempted by the laws of the United States, or of this State.

§ 2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

§ 3. All militia officers shall be commissioned by the Governor, and may hold their commissions for such time as the General Assembly may provide.

§ 4. The militia shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

§ 5. The military records, banners and relics of the State shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the General Assembly to provide by law for the safe keeping of the same.

§ 6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, such person shall pay an equivalent for such exemption.

ARTICLE XIII.

WAREHOUSES.

SECTION 1. All elevators or store-houses where grain or other property is stored for a compensation, whether the property stored be kept separated or not, are declared to be public warehouses.

§ 2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than one hundred thousand inhabitants shall make weekly statements, under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain, shipped in separate lots, shall not be mixed with inferior or superior grades without the consent of the owner or consignee thereof.

§ 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse, in regard to such property.

§ 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

§ 5. All railroad companies receiving and transporting grain in bulk or otherwise shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee and any public warehouse, coal bank or coal yard may be reached by the cars on said railroad.

§ 6. It shall be the duty of the General Assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the Constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common-law remedies.

§ 7. The General Assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever two-thirds of the members of each House of the General Assembly shall, by a vote entered upon the journals thereof, concur that a Convention is necessary to revise, alter or amend the Constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a Convention, the General Assembly shall, at the next session, provide for a Convention, to consist of double the number of members of the Senate, to be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the act calling the Convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the Convention in the performance of its duties. Before proceeding, the members shall take an oath to support the Constitution of the United States, and of the State of Illinois, and to faithfully discharge their duties as

members of the Convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said Convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the Convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alterations, or amendments, shall take effect.

§ 2. Amendments to the Constitution may be proposed in either House of the General Assembly, and, if the same shall be voted for by two-thirds of all the members elected to each of the two Houses, such proposed amendments, together with the yeas and nays of each House thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this Constitution. But the General Assembly shall have no power to propose amendments to more than one article of this Constitution at the same session, nor to the same article oftener than once in four years.

SECTIONS SEPARATELY SUBMITTED.

ILLINOIS CENTRAL RAILROAD.

No contract, obligation or liability whatever, of the Illinois Central Railroad Company to pay any money into the State Treasury, nor any lien of the State upon or right to tax property of said company, in accordance with the provisions of the charter of said company, approved February 10th, A. D. 1851, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State Government, and for no other purposes whatever.

MINORITY REPRESENTATION.¹

The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two

¹ This section, by approval of the people, becomes section 7 in Article IV, in place of sections 7 and 8 first submitted.

years. Three Representatives shall be elected in each Senatorial District at the general election in the year of our Lord 1872, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit, and the candidates highest in votes shall be declared elected.

MUNICIPAL SUBSCRIPTIONS TO RAILROAD OR PRIVATE CORPORATIONS.

No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to, or loan its credit in aid of, such corporation: *Provided, however,* That the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State, at a general election, and have been approved by a majority of all the votes polled at such election.

The General Assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals: *Provided,* That any surplus earnings of any canal may be appropriated for its enlargement or extension.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared :

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts of this State, individuals or bodies corporate, shall continue to be as valid as if this Constitution had not been adopted.

§ 2. That all fines, taxes, penalties and forfeitures, due and owing to the State of Illinois under the present Constitution and laws, shall inure to the use of the people of the State of Illinois under this Constitution.

§ 3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue; and all crimes and misdemeanors shall be tried and punished as though no change had been made in the Constitution of this State.

§ 4. County Courts, for the transaction of county business in counties not having adopted township organization, shall continue in existence, and exercise their present jurisdiction until the Board of County Commissioners provided in this Constitution is organized in pursuance of an act of the General Assembly; and the County Courts in all other counties shall have the same power and jurisdiction they now possess, until otherwise provided by general law.

§ 5. All existing courts which are not in this Constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

§ 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this Constitution it is otherwise directed.

§ 7. On the day this Constitution is submitted to the people for ratification, an election shall be held for Judges of the Supreme Court in the second, third, sixth and seventh judicial election districts designated in this Constitution, and for the election of three Judges of the Circuit Court in the county of Cook, as provided for in the article of this Constitution relating to the judiciary; at which election, every person entitled to vote according to the terms of this Constitution shall be allowed to vote, and the election shall be otherwise conducted, returns made and certificates issued, in accordance with existing laws, except that no registry shall be required at said election: *Provided*, That at said election in the county of Cook, no elector shall vote for more than two candidates for Circuit Judge. If, upon canvassing the votes for and against the adoption of this Constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any of said Supreme or Circuit Judges.

§ 8. This Constitution shall be submitted to the people of the State of Illinois for adoption or rejection, at an election to be held on the first Saturday in July, A. D. 1870, and there shall be separately submitted at the same time, for adoption or rejection,

Sections 9, 10, 11, 12, 13, 14 and 15, relating to railroads, in the article entitled "Corporations;"

The article entitled "Counties;"

The article entitled "Warehouses;"

The question of requiring a three-fifths vote to remove a county seat;

The section relating to the Illinois Central Railroad;

The section in relation to Minority Representation;

The section relating to Municipal Subscriptions to Railroads or Private Corporations; and

The section relating to the Canal.

Every person entitled to vote under the provisions of this Constitution, as defined in the article in relation to "Suffrage," shall be entitled to vote for the adoption or rejection of this Constitution, and for or against the articles, sections and questions aforesaid, separately submitted; and the said qualified electors shall vote at the usual places of voting, unless otherwise provided, and the said elections shall be conducted, and returns thereof made, according to the laws now in force regulating general elections, except that no registry shall be required at said election: *Provided, however,* That the polls shall be kept open for the reception of ballots until sunset of said day of election.

§ 9. The Secretary of State shall, at least twenty days before said election, cause to be delivered to the County Clerk of each county blank poll-books, tally-lists and forms of return, and twice the number of properly prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the Secretary of State is, by law, required to be audited and paid; and the several County clerks shall, at least five days before said election, cause to be distributed to the Board of Election in each election district, in their respective counties, said blank poll-books, tally-lists, forms of return and tickets.

§ 10. At the said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET.

For all the propositions on this ticket which are not canceled with ink or pencil; and against all which are so canceled.

For the new Constitution.

For the sections relating to Railroads in the article entitled "Corporations."

For the article entitled "Counties."

For the article entitled "Warehouses."

For a three-fifths vote to remove County Seats.

For the section relating to the Illinois Central Railroad.

For the section relating to Minority Representation.

For the section relating to Municipal Subscriptions to Railroads or Private Corporations.

For the section relating to the Canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not canceled with ink or pencil and against each proposition so canceled, and returns thereof shall be made accordingly by the Judges of Election.

§ 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this Constitution, and for or against the articles and sections respectively submitted, shall be made by the several County Clerks, as is now provided by law, to the Secretary of State, within twenty days after the election; and the returns of the said votes shall, within five days thereafter, be examined and canvassed by the Auditor, Treasurer and Secretary of State, or any two of them, in the presence of the Governor, and proclamation shall be made by the Governor, forthwith, of the result of the canvass.

§ 12. If it shall appear that a majority of the votes polled are "for the new Constitution," then so much of this Constitution as was not separately submitted to be voted on by articles and sections shall be the supreme law of the State of Illinois, on and after Monday, the 8th day of August, A. D. 1870; but if it shall appear that a majority of the votes polled were "against the new Constitution," then so much thereof as was not separately submitted to be voted on by articles and sections shall be null and void. If it shall appear that a majority of the votes polled are "for the sections relating to railroads in the article entitled 'Corporations,'" sections 9, 10, 11, 12, 13, 14 and 15, relating to railroads in the said article, shall be a part of the Constitution of this State; but, if a majority of said votes are against such sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'Counties,'" such article shall be a part of the Constitution of this State, and shall be substituted for Article VII, in the present Constitution, entitled "Counties;" but, if a majority of said votes are against such article, the same shall be null and void. If a majority of the votes polled are for the article entitled "Warehouses," such article shall be a part of the Constitution of this State; but, if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively to the Illinois "Central Railroad," "Minority Representation," "Municipal Subscriptions to Railroads or Private Corporations," and the "Canal," then such of said sections as shall receive such majority shall be a part of the

Constitution of this State; but each of said sections so separately submitted, against which, respectively, there shall be a majority of the votes polled, shall be null and void: *Provided*, That the section relating to "Minority Representation" shall not be declared adopted unless the portion of the Constitution not separately submitted to be voted on by articles and sections shall be adopted; and, in case said section relating to "Minority Representation" shall become a portion of the Constitution, it shall be substituted for sections 7 and 8 of the Legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county seat, then the words "a majority" shall be stricken out of section *four* of the article on counties, and the words "three-fifths" shall be inserted in lieu thereof; and the following words shall be added to said section, to wit: "But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes, as aforesaid, then the same shall have no effect whatever.

§ 13. Immediately after the adoption of this Constitution the Governor and Secretary of State shall proceed to ascertain and fix the apportionment of the State for members of the first House of Representatives under this Constitution. The apportionment shall be based upon the Federal census of the year of our Lord 1870, of the State of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the Legislative Department of this Constitution: *Provided*, That in case the Federal census aforesaid cannot be ascertained prior to Friday, the 23d day of September, A. D. 1870, then the said apportionment shall be based on the State census of the year of our Lord 1865, in accordance with the rules and principles aforesaid. The Governor shall, on or before Wednesday, the 28th day of September, A. D. 1870, make official announcement of the said apportionment, under the Great Seal of the State; and one hundred copies thereof, duly certified, shall be forthwith transmitted by the Secretary of State to each county clerk for distribution.

§ 14. The districts shall be regularly numbered by the Secretary of State, commencing with Alexander county as No. 1, and proceeding thence northwardly through the State, and terminating with the county of Cook; but no county shall be numbered as more than one district, except the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing Representatives of said county. And on the Tuesday after the first Monday in November, A. D. 1870, the members of the first House of Representatives under this Constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold

their offices for two years, and until their successors shall be elected and qualified.

§ 15. The Senate, at its first session under this Constitution, shall consist of fifty members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, A. D. 1870, two Senators shall be elected in districts where the term of Senators expire on the first Monday of January, A. D. 1871, or where there shall be a vacancy, and in the remaining district one Senator shall be elected. Senators so elected shall hold their office two years.

§ 16. The General Assembly, at its first session held after the adoption of this Constitution, shall proceed to apportion the State for members of the Senate and House of Representatives, in accordance with the provisions of the article on the "Legislative Department."

§ 17. When this Constitution shall be ratified by the people, the Governor shall forthwith, after having ascertained the fact, issue writs of election to the Sheriffs of the several counties of this State, or, in case of vacancies, to the Coroners, for the election of all the officers, the time of whose election is fixed by this Constitution or schedule, and it shall be the duty of said Sheriffs or Coroners to give such notice of the time and place of said election as is now prescribed by law.

§ 18. All laws of the State of Illinois, and all official writings, and the Executive, Legislative and Judicial proceedings, shall be conducted, preserved and published in no other than the English language.

§ 19. The General Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

§ 20. The Circuit Clerks of the different counties having a population over sixty thousand shall continue to be Recorders (*ex officio*) for their respective counties, under this Constitution, until the expiration of their respective terms.

§ 21. The Judges of all Courts of Record in Cook county shall, in lieu of any salary provided for in this Constitution, receive the compensation now provided by law, until the adjournment of the first session of the General Assembly after the adoption of this Constitution.

§ 22. The present Judge of the Circuit Court of Cook county shall continue to hold the Circuit Court of Lake county until otherwise provided by law.

§ 23. When this Constitution shall be adopted, and take effect as the supreme law of the State of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable

property, in addition to all other taxes, as set forth in Article XV of the now existing Constitution, shall cease to be assessed after the year of our Lord 1870.

§ 24. Nothing contained in this Constitution shall be so construed as to deprive the General Assembly of power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city shall have voted, and to which they shall have given, by such vote, their assent prior to the 13th day of December, A. D. 1869: *Provided*, That no such indebtedness, so created, shall in any part thereof be paid by the State, or from any State revenue, tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And provided, further*, that the General Assembly shall have no power in the premises that it could not exercise under the present Constitution of this State.

§ 25. In case this Constitution, and the articles and sections separately submitted, be adopted, the existing Constitution shall cease in all its provisions; and in case this Constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing Constitution, if any, on the same subject shall remain in force.

§ 26. The provisions of this Constitution required to be executed prior to the adoption or rejection thereof shall take effect and be in force immediately.

Done in Convention, at the Capitol, in the city of Springfield, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States of America the ninety-fourth.

CHARLES HITCHCOCK, *President*.

JOHN Q. HARMAN, *Secretary*.

[Delegates by Representative Districts.]

DISTRICTS.

1. William J. Allen,
2. George W. Brown,
3. W. G. Bowman,
4. James M. Sharp,
5. William B. Anderson,
6. James M. Washburn,
7. Harvey P. Buxton,
8. J. H. Wilson, George W. Wall,
9. Silas L. Bryan,
10. Robert P. Hanna,

DISTRICTS.

11. James C. Allen,
12. James P. Robinson,
13. Beverly W. Henry,² Ferris For-
man,³
14. Charles E. McDowell,
15. William H. Snyder, William H.
Underwood,
16. Charles F. Springer, Henry W. Bil-
lings,¹
17. John Scholfield,

¹ Died during the session.

² Resigned.

³ Elected in place of Henry, resigned; took his seat April 12, 1870.

DISTRICTS.

18. George R. Wendling,
19. Edward Y. Rice,
20. Milton Hay, Samuel C. Parks,
21. John W. Hankins,
22. Robert A. King,
23. James W. English,
24. William R. Archer, John Abbott,
25. Wm. L. Vandeventer,
26. O. H. Wright,
27. Henry J. Atkins,
28. Orville H. Browning, Onias C. Skinner,
29. William H. Neece,
30. Jesse C. Fox,
31. David Ellis,
32. James S. Poage,
33. A. G. Kirkpatrick,¹ Henry Tubbs,²
34. Alfred M. Craig,
35. Lewis W. Ross, Samuel P. Cummings,
36. Henry W. Wells, Miles A. Fuller,
37. Jonathan Merriam,
38. Reuben M. Benjamin, Clifton H. Moore,
39. John L. Tinscher, Henry P. H. Bromwell, Richard B. Sutherland,
40. Chas. Emmerson,¹ Abel Harwood,

DISTRICTS.

41. William H. Patterson,¹ John P. Gambell,²
42. Addison Godell,
43. William C. Goodhue, W. P. Peirce.
44. George S. Eldredge, Joseph Hart, Nathaniel J. Pillsbury,
45. L. D. Whiting, James G. Bayne, Peleg S. Perley,
46. George E. Wait,
47. Calvin Truesdale,
48. James McCoy,
49. John Dement,
50. Joseph Parker,
51. Westel W. Sedgwick, Jesse S. Hil-drup,
52. Charles Wheaton, Henry Sherrill,
53. Elijah M. Haines,
54. L. S. Church,
55. Robert J. Cross.
56. Thomas J. Turner,
57. William Cary, David C. Wagner,
58. H. H. Cody,
59. Joseph Medill, S. S. Hays, John C. Haines,
60. William C. Coolbaugh, Charles Hitchcock,
61. Elliott Anthony, Daniel Cameron.

¹ Died during the session.

² Elected in place of Kirkpatrick, deceased; took his seat April 13, 1870.

³ Elected in place of Patterson, deceased; took his seat February 4, 1870.



INDIANA.

Indiana was originally a part of the "Territory of the United States northwest of the Ohio river," established July 13, 1787.

By an act of May 7, 1800, which took effect on the 4th of July of that year, the "Territory of Indiana" was established, and made to include all of the above territory west of a line running from a point opposite the mouth of the Kentucky river, to Fort Recovery, on the head waters of the Wabash, and from thence due north to the northern boundary of the United States. A form of government was established in all respects similar to the one already in operation in the Territory northwest of the Ohio, excepting that an election might be held for the Territorial Legislature before the number of males of legal age amounted to five thousand, if such proved to be the wish of the freeholders. The act provided that when a State government should be formed east of a meridian passing through the mouth of the Great Miami (as occurred in 1802, upon the formation of Ohio), this line was to become the eastern boundary of Indiana Territory. The seat of government was fixed at Saint Vincennes, on the Wabash, until otherwise ordered by law.

Upon the admission of Ohio as a State, April 30, 1802, a narrow strip of territory east of the former boundary of Indiana Territory, and the portion north of the new State of Ohio, became a part of Indiana Territory, and its boundaries were temporarily increased to a vast extent, upon the 26th of March, 1804, by the provisional annexation of all that part of the Louisiana purchase north of 33° north latitude, which was formed into the "District of Louisiana." It thus remained until March 3, 1805, when the "Territory of Louisiana" was established, absorbing this portion west of the Mississippi.

On the formation of Michigan Territory, January 11, 1805, the boundary between it and Indiana Territory was fixed on a line running due east from the most southern point of Lake Michigan to Lake Erie. The right of suffrage in the Territory of Indiana was extended February 26, 1808, by fixing the time of previous residence at one year; and the property qualification, that of holding a legal or equitable title to fifty acres of land, or the purchase from the United States of that quantity, or the holding in his own right, a town lot of the value of one hundred dollars.

On the 3d of March, 1811, the right of suffrage was again extended, requiring only of adult white males one year's residence, and the payment of a county or territorial tax.

The Territory of Illinois was formed by an act of Congress, approved February 3, 1809, the division line between the two territories being fixed on the line that has since remained the boundary between Indiana and Illinois.

Upon a memorial from the Territorial Legislature, on behalf of the people — accompanied by the returns of a census taken in 1815, showing a population of 63,897 — an act was passed April 19, 1816, authorizing the formation of a State Government, consistent with the principles guaranteed by the Ordinance of 1787. The boundaries of the State were described in the Enabling act. The qualification of voters, and districts for the election of delegates to the first Convention, were defined, and the day of election fixed on the second Monday of May, 1816.

The Convention had submitted to it, for acceptance or rejection, the following propositions, which, if accepted, were to be obligatory upon the United States, viz. :

First, That the sections numbered " sixteen " in every township — and when such section had been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same — shall be granted to the inhabitants of such township for the use of schools.

Second, That all salt-springs within the said Territory, and the land reserved for the use of the same — together with such other lands as might, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding in the whole the quantity contained in thirty-six entire sections — should be granted to the said State, the same to be under such terms, conditions and regulations as the Legislature of the said State should direct : *Provided*, That the said Legislature should never sell nor lease the same for a longer period than ten years at any one time.

Third, That five per cent of the net proceeds of the lands lying within the said Territory, which should be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, should be reserved for making public roads and canals : of which three-fifths should be applied to these objects within the said State, under the direction of the Legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth, That one entire township, which was to be designated by the President of the United States, in addition to the one heretofore reserved for that purpose, should be reserved for the use of a seminary of learning, and vested in the Legislature of the said State, to be appropriated solely to the use of such seminary by the said Legislature.

Fifth, That four sections of land be granted to the said State for the purpose of fixing the Seat of Government thereon : which four sections were to be located at any time in such township and range as the Legislature aforesaid might select, on such lands as might thereafter be acquired by the United States from the Indian tribes within the said Territory ; *Provided*, That such locations were to be made prior to the public sale of the lands of the United States surrounding such location.

These five propositions were offered on the conditions that the Convention of the State should provide by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States after the first of the next December should remain free from State, county, township, or other tax, for five years from date of sale.

The Enabling act fixed the northern boundary of the State on a parallel of latitude ten miles further north than had been allowed under the Territorial organization, and this has since thus remained.¹

The Convention was elected at the appointed time ; met at Corydon June 10, and adjourned June 29, 1816, having prepared a Constitution, which went into effect without being submitted to a vote of the people. The conditions proposed by Congress were ratified by an ordinance of the Convention, and the State was admitted into the Union by a joint resolution, approved December 11, 1816. The laws of the United States were extended over the State of Indiana by an act of March 3, 1817.

By one of the provisions of this first Constitution, a vote was to be taken once

¹ As surveyed in October, 1827, under an act of Congress, passed March 2d of that year, this line was found to be 104 miles, 49 chains and 55 links in length.

in twelve years at the general election for Governor, to ascertain the wishes of the people as to the holding of a Convention. Under this provision, acts were passed for this purpose on the 14th of January, 1828, and on the 3d of February, 1840; but in each case the decision was adverse to the proposal.

A little before the third return of this period, however, a Convention was called. It met at Indianapolis, October 7, 1850, and on the 10th of February, 1851, agreed upon the Constitution now in force. It was approved by a vote of 109,319 to 26,755.

The changes made by the Convention of 1850-'51 were chiefly as follows:

The Bill of Rights was extended from 24 to 37 sections. Several of the former sections were divided or changed in phraseology, and those now numbered 6, 7, 23 and 24 were introduced.

In the Suffrage article, the sections now numbered 3, 4, 5, 6, 7, 12 and 14 were added; the time of residence of voters who are citizens of the United States, was reduced from one year to six months, and the clause relating to voters of foreign birth who had not completed their naturalization was added.

The number of members of the House was at first restricted so as not to be less than 25 nor more than 36; but, whenever the number of adult white male inhabitants should exceed 22,000, the number might be increased from 36 to 100. The number of Senators could be not less than a third, nor more than a half, of that of the members. They were equalized upon a census of adult white males, once in five years.

The term of Senators was three years, one-third being chosen ever year.

The articles now numbered IX, X, XIII and XIV, and the greater part of XI, were added.

The sessions were annual and unlimited, and the present restrictions upon special legislation and of publication, before taking effect, were not included.

The Governor's term was three years, and he could not hold more than six years in nine. He was required to have been ten years a citizen of the United States. He had five days to consider bills and resolutions, and the clause now limiting the time for presenting them was added. He could nominate, for the approval of the Senate, all officers not otherwise provided for by the Constitution.

The Secretary of State, Auditor and Treasurer were chosen by joint ballot of the two Houses, the Secretary for four and the others for three years.

The Judges of the Supreme Court were formerly appointed by the Governor and Senate, and their terms were fixed at seven years. The Supreme Court consisted of three Judges; the Circuit Courts each of a President and two Associate Judges, appointed by joint ballot of the two Houses, and the State was divided into three circuits. The Clerk of the Supreme Court was appointed by the court, and the Clerks of the Circuit Courts in the several counties.

Another Convention was proposed by an act of March 5, 1859, but was not approved by the people at the next annual election in October of that year.

CONSTITUTION OF INDIANA, 1851.

SUMMARY.

ARTICLES.

- I. Bill of Rights.
 - II. Suffrage and Election.
 - III. Distribution of Powers.
 - IV. Legislative.
 - V. Executive.
 - VI. Administrative.
 - VII. Judicial.
 - VIII. Education.
 - IX. State Institutions.
 - X. Finance.
 - XI. Corporations.
 - XII. Militia.
 - XIII. Negroes and Mulattoes.
 - XIV. Boundaries.
 - XV. Miscellaneous.
 - XVI. Amendments.
- Schedule.

PREAMBLE.

ARTICLE I. — *Bill of Rights.*

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1. Men naturally equal — unalienable rights — origin of power — object of government.
2. Religious freedom.
3. Laws not to control religious opinions.
4. No preference to be given to any particular sect.
5. Religious tests and qualifications for office not allowed.
6. No money to be drawn from treasury for religious or theological institutions.
7. Witnesses not rendered incompetent on account of religion.
8. Mode of administering oaths.
9. Freedom of speech and of the press.
10. Prosecutions for libel.
11. Exemption from illegal seizures and searches.
12. Courts open — right of justice.
13. Rights of persons accused of crime — witnesses — counsel.
14. Second trial forbidden — not to testify against one's self.
15. Confinement in jail not to be unnecessarily rigorous.
16. Excessive bail and fines — cruel punishments.
17. Right of bail.
18. Penal Code founded on principles of reformation.
19. Juries to determine the law and the facts.
20. Right of trial by jury in civil cases.
21. Particular services or private property not to be taken without payment.
22. Imprisonment for debt not allowed.
23. Exclusive privileges not to be allowed.
24. *Ex post facto* laws forbidden — contracts.
25. No law to be passed by any authority not recognized in Constitution.
26. Laws only to be suspended by General Assembly.
27. Privilege of writ of *habeas corpus*.
28. Treason defined.
29. Treason, how proved.
30. Conviction not to work corruption of blood or forfeiture.

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32. Right of bearing arms.
33. Military to be subordinate to civil power.
34. Quartering of soldiers.
35. Titles of nobility and hereditary distinctions forbidden.
36. Emigration from State not to be forbidden.
37. Slavery prohibited — indentures of negroes made out of State not valid in it.

ARTICLE II. — *Suffrage and Election.*

1. Elections free and equal.
2. Qualifications of voters.
3. Persons in army or navy not to gain right by being stationed.
4. Absence in service of State or United States not to forfeit rights.
5. Negroes and Mulattoes denied right of voting.
6. Bribery at elections to forfeit right.
7. Dueling to disqualify from voting.
8. Laws may be passed depriving criminals of right to vote or hold office.
9. Office holders under United States not to hold State office — exceptions.
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11. Appointments *pro tempore*.
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13. Elections by people to be by ballot — in General Assembly *viva voce*.
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ARTICLE III. — *Distribution of Powers.*

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ARTICLE IV. — *Legislative.*

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6. Districts not to be separated.
7. Qualification of members — least age.
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9. Sessions biennial — to begin in 1853 — special sessions.
10. Powers of each House — adjournments.
11. Quorum — case of failure to organize.
12. Journals — yeas and nays, when recorded — proviso in case of adjournment.
13. Doors to be open.
14. Punishment of members — expulsion.
15. Power over persons not members.
16. Each House to have powers necessary in a free and independent State.
17. Origin of bills — amendment.
18. Passage of bills — yeas and nays — final votes.
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4. How elected—returns of election.
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6. Contested elections to be determined by law.
7. Qualifications for the office.
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9. Beginning of term.
10. Vacancy in office of Governor, how filled.
11. President of Senate in case Lieutenant-Governor serves as Governor.
12. Commander-in-Chief—may call out militia.
13. To communicate by message.
14. To sign bills—veto power—limited.
15. To transact business with officers of government—may require information.
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19. To issue writs of election to fill vacancies.
20. May in certain case convene General Assembly elsewhere than at seat of government.
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5. Decisions to be in writing and of record.
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9. Judicial Circuits—judges—term—residence.

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10. Exchange of circuits by judges—case of inability to hold court.
11. Prosecuting Attorney in each district—term.
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14. Justices of the Peace—term—powers.
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16. Judicial officers not eligible to other offices.
17. Grand Jury system may be altered or abolished.
18. Style of process—authority of criminal prosecutions.
19. Tribunals of conciliation—to be binding only when parties consent.
20. Commissioners to revise rules, etc.—may reduce the laws into a code.
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ARTICLE VIII. — *Education.*

1. Duty of State to encourage improvements and schools.
2. School fund, how constituted.
3. Principal to remain inviolate—income to be applied for no purpose but schools.
4. Investment of school fund—distribution.
5. Case of failure to demand its proportion by any county.
6. Counties liable for safe keeping of school fund.
7. Trust funds to be inviolable.
8. Election of Superintendent of Public Instruction—term—duties.

ARTICLE IX. — *State Institutions.*

1. Benevolent institutions to be maintained.
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ARTICLE X. — *Finance.*

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3. Case of a banking law being passed—bills to be countersigned—securities—under State control.
4. A bank with branches may be chartered.
5. Mutual responsibility of branches, if such bank be formed.
6. Liability of bank stockholders.
7. Redemption of bills in gold or silver—no suspension of specie payment to be allowed.
8. Preference to bill-holders in case of insolvency.
9. Banks not to receive greater rate of interest than individuals.
10. Banks to close business within twenty years.
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6. Commissions, how sealed and signed.
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7. Senators continued.
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9. First State officers.
10. Continuance of officers — proviso.
11. Officers to take oath to support Constitution.
12. Vacancies in existing offices.
13. Separate vote concerning Negroes and Mulattoes.
14. No other article or section to be submitted separately.
15. New county from Perry and Spencer allowed, if voters approve.
16. Charter of Clarksville may be amended.

PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. We declare that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety and well being. For the advancement of these ends the people have, at all times, an indefeasible right to alter and reform their government.

§ 2. All men shall be secured in the natural right to worship Almighty God according to the dictates of their own consciences.

§ 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

§ 4. No preference shall be given by law to any creed, religious society or mode of worship; and no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent.

§ 5. No religious test shall be required as a qualification for any office of trust or profit.

§ 6. No money shall be drawn from the treasury for the benefit of any religious or theological institution.

§ 7. No person shall be rendered incompetent as a witness in consequence of his opinions on matters of religion.

§ 8. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

§ 9. No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write or print freely on any subject whatever; but for the abuse of that right every person shall be responsible.

§ 10. In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

§ 12. All courts shall be open; and every man, for injury done to him in his person, property or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

§ 13. In all criminal prosecutions the accused shall have the right to a public trial by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

§ 14. No person shall be put in jeopardy twice for the same offense. No person in any criminal prosecution shall be compelled to testify against himself.

§ 15. No person arrested or confined in jail shall be treated with unnecessary rigor.

§ 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

§ 17. Offenses, other than murder and treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident or the presumption strong.

§ 18. The Penal Code shall be founded on the principles of reformation and not of vindictive justice.

§ 19. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

§ 20. In all civil cases, the right of trial by jury shall remain inviolate.

§ 21. No man's particular services shall be demanded without just compensation; no man's property shall be taken by law without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

§ 22. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

§ 23. The General Assembly shall not grant to any citizen, or class of citizens, privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.

§ 24. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

§ 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.

§ 26. The operation of the laws shall never be suspended, except by the authority of the General Assembly.

§ 27. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

§ 28. Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

§ 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

§ 30. No conviction shall work corruption of blood or forfeiture of estate.

§ 31. No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner to consult for their com-

mon good, nor from instructing their Representatives, nor from applying to the General Assembly for redress of grievances.

§ 32. The people shall have a right to bear arms for the defense of themselves and the State.

§ 33. The military shall be kept in strict subordination to the civil power.

§ 34. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

§ 35. The General Assembly shall not grant any title of nobility, nor confer hereditary distinctions.

§ 36. Emigration from the State shall not be prohibited.

§ 37. There shall be neither slavery nor involuntary servitude within the State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. No indenture of any Negro or Mulatto, made and executed out of the bounds of the State, shall be valid within the State.

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 1. All elections shall be free and equal.

§ 2. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upward, who shall have resided in the State during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upward, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.¹

§ 3. No soldier, seaman, or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such soldier, seaman or marine have the right to vote.

§ 4. No person shall be deemed to have lost his residence in the

¹ By a joint resolution passed in 1861, but not approved at the next session, it was proposed to add the following:

"Laws may be passed fixing, as a qualification of voting, the length of time during which an elector shall have resided in the county and township, precinct or ward in which he offers to vote, and for ascertaining by proper proofs the persons entitled to vote under this Constitution."

State by reason of his absence, either on business of this State or of the United States.

§ 5. No Negro or Mulatto shall have the right of suffrage.

§ 6. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

§ 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

§ 8. The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

§ 9. No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the General Assembly: nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted: *Provided*, That officers in the militia, to which there is attached no annual salary, and the office of Deputy Postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative; *And provided, also*, That counties containing less than one thousand polls may confer the office of Clerk, Recorder, and Auditor, or any two of said offices, upon the same person.

§ 10. No person who may hereafter be a collector or holder of public moneys shall be eligible to any office of trust or profit, until he shall have accounted for, and paid over according to law, all sums for which he may be liable.

§ 11. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

§ 12. In all cases, except treason, felony and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same.

§ 13. All elections by the people shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be *viva voce*.

§ 14. All general elections shall be held on the second Tuesday in October.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the Government are divided into three separate departments, the Legislative, the Executive, including the

Administrative, and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this Constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative authority of the State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. The style of every law shall be: "*Be it enacted by the General Assembly of the State of Indiana;*" and no law shall be enacted except by bill.

§ 2. The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided.

§ 3. Senators shall be elected for the term of four years, and Representatives for the term of two years, from the day next after their general election: *Provided, however,* That the Senators elect, at the second meeting of the General Assembly under this Constitution, shall be divided by lot into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and of those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of Senators, they shall be so annexed by lot to one or the other of the two classes, as to keep them as nearly equal as practicable.

§ 4. The General Assembly shall at its second session after the adoption of this Constitution, and every sixth year thereafter, cause an enumeration to be made of all the white male inhabitants over the age of twenty-one years.

§ 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of white male inhabitants above twenty-one years of age in each: *Provided,* That the first and second elections of members of the General Assembly under this Constitution shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.

§ 6. A Senatorial or Representative District, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county for senatorial apportionment shall ever be divided.

§ 7. No person shall be a Senator or Representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been for two years next preceding his election an inhabitant of this State, and for one year next preceding his election an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and Representatives at least twenty-one years of age.

§ 8. Senators and Representatives, in all cases except treason, felony and breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the General Assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either House a member shall not be questioned in any other place.

§ 9. The sessions of the General Assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may at any time, by proclamation, call a special session.

§ 10. Each House, when assembled, shall choose its own officers (the President of the Senate excepted), judge the elections, qualifications and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

§ 11. Two-thirds of each House shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the House so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

§ 12. Each House shall keep a journal of its proceedings, and publish the same. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That, on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

§ 13. The doors of each House, and of committees of the whole, shall be kept open, except in such cases as in the opinion of either House may require secrecy.

§ 14. Either House may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

§ 15. Either House, during its session, may punish by imprisonment any person not a member, who shall have been guilty of disrespect to the House, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

§ 16. Each House shall have all powers necessary for a branch of the legislative department of a free and independent State.

§ 17. Bills may originate in either House, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the House of Representatives.

§ 18. Every bill shall be read by sections on three several days in each House, unless, in case of emergency, two-thirds of the House where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

§ 19. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

§ 20. Every act and joint resolution shall be plainly worded, avoiding as far as practicable the use of technical terms.

§ 21. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

§ 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of Justices of the Peace and of Constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on highways, and for the election or appointment of Supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and impaneling Grand and Petit Jurors, and providing for their compensation ;

Regulating county and township business ;

Regulating the election of county and township officers, and their compensation ;

For the assessment and collection of taxes for State, county, township, or road purposes ;

Providing for supporting common schools, and for the preservation of school funds ;

In relation to fees or salaries ;

In relation to interest on money ;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting ;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

§ 23. In all the cases enumerated in the preceding sections, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

§ 24. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this Constitution ; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

§ 25. A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution ; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective Houses.

§ 26. Any member of either House shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

§ 27. Every statute shall be a public law unless otherwise declared in the statute itself.

§ 28. No act shall take effect until the same shall have been published and circulated in the several counties of the State by authority, except in case of emergency ; which emergency shall be declared in the preamble, or in the body of the law.

§ 29. The members of the General Assembly shall receive for their services a compensation, to be fixed by law ; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the General Assembly, except the first under this Constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

§ 30. No Senator or Representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the General Assembly; nor shall he be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any office elective by the people.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive power of the State shall be vested in a Governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

§ 2. There shall be a Lieutenant-Governor, who shall hold his office during four years.

§ 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the General Assembly.

§ 4. In voting for Governor and Lieutenant-Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant-Governor. The returns of every election for Governor and Lieutenant-Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

§ 5. The person respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant-Governor, as the case may be.

§ 6. Contested elections for Governor or Lieutenant-Governor shall be determined by the General Assembly, in such manner as may be prescribed by law.

§ 7. No person shall be eligible to the office of Governor or Lieutenant-Governor who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

§ 8. No member of Congress, or person holding any office under the United States, or under this State, shall fill the office of Governor or Lieutenant-Governor.

§ 9. The official term of the Governor and Lieutenant-Governor shall commence on the second Monday of January, in the year one thousand eight hundred fifty-three, and on the same day every fourth year thereafter.

§ 10. In case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the Lieutenant-Governor; and the General Assembly shall by law provide for the case of removal from office, death, resignation, or inability, both of the Governor and Lieutenant-Governor, declaring what officer shall then act as Governor, and such officer shall act accordingly, until the disability be removed, or a Governor be elected.

§ 11. Whenever the Lieutenant-Governor shall act as Governor, or shall be unable to attend as President of the Senate, the Senate shall elect one of its own members as President for the occasion.

§ 12. The Governor shall be Commander-in-Chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

§ 13. He shall from time to time give to the General Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

§ 14. Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the House in which it shall have originated, which House shall enter the objections at large upon its journals, and proceed to reconsider the bill. If after such consideration a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House by which it shall likewise be reconsidered; and if approved by a majority of all the members elected to that House, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor within five days next after such adjournment shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session, in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly.

§ 15. The Governor shall transact all necessary business with the officers of Government, and may require information in writing from

the officers of the Administrative Department, upon any subject relating to the duties of their respective offices.

§ 16. He shall take care that the laws be faithfully executed.

§ 17. He shall have the power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly at its next meeting each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted; *Provided, however,* That the General Assembly may by law constitute a Council, to be composed of officers of State, without whose advice and consent the Governor shall not have power to grant pardons in any case, except such as may by law be left to his sole power.

§ 18. When, during a recess of the General Assembly, a vacancy shall happen in any office, the appointment to which is vested in the General Assembly; or when at any time a vacancy shall have occurred in any other State office, or in the office of Judge of any court, the Governor shall fill such vacancy by appointment which shall expire when a successor shall have been elected and qualified.

§ 19. He shall issue writs of election to fill such vacancies as may have occurred in the General Assembly.

§ 20. Should the seat of Government become dangerous from disease or a common enemy, he may convene the General Assembly at any other place.

§ 21. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, have a right when in committee of the whole to join in debate, and to vote on all subjects; and whenever the Senate shall be equally divided, he shall give the casting vote.

§ 22. The Governor shall at stated times receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

§ 23. The Lieutenant-Governor, while he shall act as President of the Senate, shall receive for his services the same compensation as the Speaker of the House of Representatives; and any person acting as Governor shall receive the compensation attached to the office of Governor.

§ 24. Neither the Governor nor Lieutenant-Governor shall be eligible to any other office during the term for which he shall have been elected.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. There shall be elected by the voters of the State a Secretary, an Auditor, and a Treasurer of State, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices more than four years in any period of six years.

§ 2. There shall be elected in each county by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The Clerk, Auditor and Recorder shall continue in office four years; and no person shall be eligible to the office of Clerk, Recorder, or Auditor more than eight years in any period of twelve years. The Treasurer, Sheriff, Coroner and Surveyor shall continue in office two years; and no person shall be eligible to the office of Treasurer or Sheriff more than four years in any period of six years.

§ 3. Such other county and township officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

§ 4. No person shall be elected or appointed as a county officer who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

§ 5. The Governor, and the Secretary, Auditor, and Treasurer of State shall severally reside, and keep the public records, books and papers in any manner relating to their respective offices, at the seat of government.

§ 6. All county, township and town officers shall reside within their respective counties, townships and towns, and shall keep their respective offices at such places therein, and perform such duties as may be directed by law.

§ 7. All State officers shall, for crime, incapacity or negligence, be liable to be removed from office, either by impeachment by the House of Representatives, to be tried by the Senate, or by a joint resolution of the General Assembly, two-thirds of the members elected to each branch voting in either case therefor.

§ 8. All State, county, township and town officers may be impeached or removed from office in such manner as may be prescribed by law.

§ 9. Vacancies in county, township and town offices shall be filled in such manner as may be prescribed by law.

§ 10. The General Assembly may confer upon the Boards doing county business in the several counties, powers of a local administrative character.

ARTICLE VII.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such inferior courts as the General Assembly may establish.

§ 2. The Supreme Court shall consist of not less than three nor more than five judges, a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

§ 3. The State shall be divided into as many districts as there are Judges of the Supreme Court; and such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of said Judges shall be elected from each district, and reside therein; but said Judges shall be elected by the electors of the State at large.

§ 4. The Supreme Court shall have jurisdiction co-extensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the General Assembly may confer.

§ 5. The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the court thereon.

§ 6. The General Assembly shall provide by law for the speedy publication of the decisions of the Supreme Court made under this Constitution; but no Judge shall be allowed to report such decisions.

§ 7. There shall be elected by the voters of the State a Clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law.

§ 8. The Circuit Courts shall each consist of one Judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

§ 9. The State shall from time to time be divided into judicial circuits; and a Judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

§ 10. The General Assembly may provide by law that the Judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any Judge, from sickness or other cause, to hold the courts in his circuit, provision shall be made by law for holding such courts.

§ 11. There shall be elected in each judicial circuit, by the voters thereof, a Prosecuting Attorney, who shall hold his office for two years.

§ 12. Any Judge or Prosecuting Attorney who shall have been convicted of corruption or other high crime may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

§ 13. The Judges of the Supreme Court and Circuit Courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

§ 14. A competent number of Justices of the Peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

§ 15. All judicial officers shall be Conservators of the Peace in their respective jurisdictions.

§ 16. No person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit under the State, other than a judicial office.

§ 17. The General Assembly may modify or abolish the grand jury system.

§ 18. All criminal prosecutions shall be carried on in the name and by the authority of the State; and the style of all process shall be: "The State of Indiana."

§ 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or court.

§ 20. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment of three Commissioners, whose duty it shall be to revise, simplify and abridge the rules, practice, pleadings and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law, now in use, and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the

General Assembly may also make it the duty of said Commissioners to reduce into a systematic code the general statute law of the State; and said Commissioners shall report the result of their labors to the General Assembly, with such recommendations and suggestions as to abridgment and amendment as to said Commissioners may seem necessary or proper. Provision shall be made by law for filling vacancies, regulating the tenure of office and the compensation of said Commissioners.

§ 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

ARTICLE VIII.

EDUCATION.

SECTION 1. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

§ 2. The common school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof, including the proceeds of the sales of the swamp lands granted to the State of Indiana by the act of Congress of 28th September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed for common school purposes.

§ 3. The principal of the common school fund shall remain a perpetual fund, which may be increased, but shall never be diminished;

and the income thereof shall be inviolably appropriated to the support of common schools, and to no other purpose whatever.

§ 4. The General Assembly shall invest, in some safe and profitable manner, all such portions of the common school fund as have not heretofore been intrusted to the several counties; and shall make provision by law for the distribution among the several counties of the interest thereof.

§ 5. If any county shall fail to demand its proportion of such interest for common school purposes, the same shall be re-invested for the benefit of such county.

§ 6. The several counties shall be held liable for the preservation of so much of the said fund as may be intrusted to them, and for the payment of the annual interest thereon.

§ 7. All trust funds held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

§ 8. The General Assembly shall provide for the election, by the voters of the State, of a State Superintendent of Public Instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

ARTICLE IX.

STATE INSTITUTIONS.

SECTION 1. It shall be the duty of the General Assembly to provide by law for the support of institutions for the education of the deaf and dumb, and of the blind, and also for the treatment of the insane.

§ 2. The General Assembly shall provide houses of refuge for the correction and reformation of juvenile offenders.

§ 3. The county boards shall have power to provide farms, as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathies and aid of society.

ARTICLE X.

FINANCE.

SECTION 1. The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law.

§ 2. All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may at any time remain in the treasury derived from taxation for general State purposes, after the payment of the ordinary expenses of the Government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied, under the direction of the General Assembly, to the payment of the principal of the public debt.

§ 3. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

§ 4. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the General Assembly.

§ 5. No law shall authorize any debt to be contracted on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

§ 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town, or township, nor of any corporation whatever.

ARTICLE XI.

CORPORATIONS.

SECTION 1. The General Assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

§ 2. No banks shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

§ 3. If the General Assembly shall enact a general banking law, such law shall provide for the registry and countersigning by an officer of State of all paper credit designed to be circulated as money, and ample collateral security, readily convertible into specie, or the redemption of the same in gold or silver, shall be required, which collateral security shall be under the control of the proper officer or officers of State.

§ 4. The General Assembly may also charter a bank with branches without collateral security, as required in the preceding section.

§ 5. If the General Assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities upon all paper credit issued as money.

§ 6. The stockholders in every bank or banking company shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

§ 7. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payments.

§ 8. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

§ 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

§ 10. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

§ 11. The General Assembly is not prohibited from investing the trust funds in a bank with branches; but, in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

§ 12. The State shall not be a stockholder in any bank after the expiration of the present bank charter; nor shall the credit of the State ever be given or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

§ 13. Corporations, other than banking, shall not be created by special act, but may be formed under general law.

§ 14. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

ARTICLE XII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this State; and shall be organized, officered, armed, equipped and trained, in such manner as may be provided by law.

§ 2. The Governor shall appoint the Adjutant, Quartermaster and Commissary-Generals.

§ 3. All militia officers shall be commissioned by the Governor, and shall hold their offices not longer than six years.

§ 4. The General Assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions and companies, and fix the rank of all staff officers.

§ 5. The militia may be divided into classes of sedentary and active militia, in such manner as shall be prescribed by law.

§ 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption, the amount to be prescribed by law.

ARTICLE XIII.¹

NEGROES AND MULATTOES.

SECTION 1. No negro or mulatto shall come into, or settle in, the State after the adoption of this Constitution.

§ 2. All contracts made with any negro or mulatto coming into the State, contrary to the provision of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

§ 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this Constitution, and may be willing to emigrate.

§ 4. The General Assembly shall pass laws to carry out the provisions of this article.

ARTICLE XIV.

BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded on the east by the meridian line which forms the western boundary of the State of Ohio; on the south by the Ohio river, from the mouth of the Great Miami river to the mouth of the Wabash river; on the west by a line drawn along the middle of the Wabash river from its mouth, to a point where a due north line drawn from the town of Vincennes would last touch the north-western shore of said Wabash river; and thence by a due north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by said east and west line until the same shall intersect the

¹ This Article was, in the case of *Smith v. McGady* (26 Ind. 299), declared repugnant to the Constitution of the United States.

first-mentioned meridian line, which forms the western boundary of the State of Ohio.

§ 2. The State of Indiana shall possess jurisdiction and sovereignty co-extensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction in civil and criminal cases with the State of Kentucky on the Ohio river, and with the State of Illinois on the Wabash river, so far as said rivers form the common boundary between this State and said States respectively.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose appointment is not otherwise provided for in this Constitution shall be chosen in such manner as now is, or may hereafter be, prescribed by law.

§ 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years.

§ 3. Whenever it is provided in this Constitution, or in any law which may be hereafter passed, that any officer, other than a member of the General Assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

§ 4. Every person elected or appointed to any office under this Constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of this State and of the United States, and also an oath of office.

§ 5. There shall be a seal of State kept by the Governor for official purposes, which shall be called the Seal of the State of Indiana.

§ 6. All commissions shall issue in the name of the State, shall be signed by the Governor, sealed with the State seal, and attested by the Secretary of State.

§ 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

§ 8. No lottery shall be authorized, nor shall the sale of lottery tickets be allowed.

§ 9. The following grounds, owned by the State in Indianapolis, namely: The State House Square, the Governor's Circle, and so much

of out lot numbered one hundred and forty-seven as lies north of the arm of the Central Canal, shall not be sold or leased.¹

§ 10. It shall be the duty of the General Assembly to provide for the permanent inclosure and preservation of the Tippecanoe battle-ground.²

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the General Assembly, and, if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

§ 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments which shall have been agreed upon by one General Assembly shall be awaiting the action of a succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed.

SCHEDULE.

This Constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the Constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the Government, it is hereby ordained as follows:

SECTION 1. All laws now in force and not inconsistent with this Constitution shall remain in force until they shall expire or be repealed.

¹ The seat of government was located at Indianapolis, June 7, 1820, and confirmed by law January 6, 1821. Corydon remained the actual seat of government until January 10, 1825.

² This battle-ground is a beautifully inclosed white-oak grove, skirted by prairies, about seven miles from Lafayette, and near a railroad. It was given to the State of Indiana by the late Gen. John Tipton, for some years a Senator in Congress, who served as an ensign in the battle.

§ 2. All indictments, prosecutions, suits, pleas, complaints, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts in the same manner as is now provided by law.

§ 3. All fines, penalties and forfeitures due or accruing to the State, or to any county therein, shall inure to the State, or to such county, in the manner prescribed by law. All bonds executed to the State, or to any officer in his official capacity, shall remain in force, and inure to the use of those concerned.

§ 4. All acts of incorporation for municipal purposes shall continue in force under this Constitution, until such time as the General Assembly shall, in its discretion, modify or repeal the same.

§ 5. The Governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

§ 6. There shall be a session of the General Assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

§ 7. Senators now in office and holding over under the existing Constitution, and such as may be elected at the next general election, and the Representatives then elected, shall continue in office until the first general election under this Constitution.

§ 8. The first general election under this Constitution shall be held in the year one thousand eight hundred and fifty-two.

§ 9. The first election for Governor, Lieutenant-Governor, Judges of the Supreme Court and Circuit Courts, Clerk of the Supreme Court, Prosecuting Attorney, Secretary, Auditor, and Treasurer of State, and State Superintendent of Public Instruction, under this Constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this Constitution shall go into effect shall continue in their respective offices until their successors shall have been elected and qualified.

§ 10. Every person elected by popular vote, and now in any office which is continued by this Constitution, and every person who shall be elected to any such office before the taking effect of this Constitution (except as in this Constitution otherwise provided), shall continue in office until the term for which such person has been or may be elected shall expire: *Provided*, That no such person shall continue in office after the taking effect of this Constitution for a longer period than the term of such office in this Constitution prescribed.

§ 11. On the taking effect of this Constitution, all officers thereby

continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this Constitution.

§ 12. All vacancies that may occur in existing offices prior to the first general election under this Constitution shall be filled in the manner now prescribed by law.

§ 13. At the time of submitting this Constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and colonization of negroes and mulattoes," "Aye" or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this Constitution, otherwise it shall be void, and form no part thereof.¹

§ 14. No article or section of this Constitution shall be submitted as a distinct proposition to a vote of the electors, otherwise than is herein provided.

§ 15. Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form of the contiguous territory of said counties a new county, it shall be the duty of those interested in the organization of such new county to lay off the same by proper metes and bounds, of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties at a general election, in such manner as may be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the General Assembly to organize the same out of the territory thus designated.

§ 16. The General Assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same; and the funds belonging to said town shall be applied according to the intention of the grantor.

Done in Convention, at Indianapolis, the tenth day of February, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States the seventy-fifth.

GEORGE WHITFIELD CARR,

President and Delegate from the County of Lawrence.

Attest:

WM. A. ENGLISH, *Principal Secretary.*

¹ The vote upon this article was 109,976 *aye*, and 21,066 *no*.

GEORGE L. SITES,
HERMAN G. BARKWELL, } Assistant Secretaries.
ROBERT M. EVANS,

Charles Alexander,	Pike.
Hiram Allen,	Carroll and Clinton.
Samuel I. Anthony,	Lake, La Porte and Porter.
O. P. Badger,	Putnam.
C. W. Barbour,	Vigo.
E. K. Bascom,	Adams and Wells.
Walter E. Beach,	Elkhart.
John Beard,	Wayne.
Othniel Beeson,	Wayne.
Geo. Berry,	Franklin.
Horace P. Biddle,	Cass, Pulaski and Howard.
James E. Blythe,	Vanderburgh.
James W. Borden,	Allen, Adams and Wells.
Thomas I. Bourne,	Vigo.
A. J. Bowers,	Ripley.
William Brackery,	Rush.
M. G. Bright,	Jefferson.
B. F. Brookbank,	Union.
James R. M. Bryant,	Warren.
Thos. Butler,	Greene.
John F. Carr,	Jackson and Scott.
Horace E. Carter,	Montgomery.
Jacob Page Chapman,	Marion.
Thomas Chenoweth,	Vermillion.
H. W. Clark,	Hamilton.
O. L. Clark,	Tippecanoe.
R. A. Clements,	Daviess.
Joseph Cook,	Fountain.
Albert B. Cole,	Hamilton, Boone and Tipton.
Schuyler Colfax,	St. Joseph.
A. B. Conduitt,	Morgan.
Grafton, F. Cookerly,	Vigo.
James Crawford,	Morgan.
D. Crumbacker,	Lake and Porter.
John Davis,	Madison.
Samuel Davis,	Parke.
Oliver P. Davis,	Parke and Vermillion.
James Dick,	Knox.
D. M. Dobson,	Owen and Greene.
W. McKee Dunn,	Jefferson.
John Pratt Dunn,	Hancock, Spencer and Perry.
Mark A. Dugan,	Boone.
B. E. Edmonston,	Dubois.
James Elliott,	Shelby.
Alexander Shore Farrow,	Putnam.
Jacob Fisher,	Clarke.
Jas. B. Foley,	Decatur.
W. C. Foster,	Monroe.

Samuel Frisbie, ...	<i>Perry.</i>
James Garvin, ...	<i>Kosciusko.</i>
T. Hare Gibson, ...	<i>Clarke.</i>
Thomas Gootee, ...	<i>Martin.</i>
George A. Gordon, ...	<i>Cass and Howard.</i>
Jno. A. Graham, ...	<i>Miami.</i>
C. C. Graham, ...	<i>Warrick.</i>
Milton Gregg, ...	<i>Jefferson.</i>
W. R. Haddon, ...	<i>Sullivan, Clay and Vigo.</i>
Saml. Hall, ...	<i>Gibson.</i>
Allen Hamilton, ...	<i>Allen.</i>
Jonathan Harbolt, ...	<i>Benton, White, Jasper and Pulaski.</i>
Franklin Hardin, ...	<i>Johnson.</i>
Nathan B. Hawkins, ...	<i>Randolph, Jay and Blackford.</i>
Jefferson Helm, ...	<i>Rush.</i>
Melchert Helmer, ...	<i>Lawrence.</i>
Thos. A. Hendricks, ...	<i>Shelby.</i>
Willis W. Hitt, ...	<i>Knox.</i>
B. C. Hogin, ...	<i>Grant.</i>
William Steel Holman, ...	<i>Dearborn.</i>
Alvin P. Hovey, ...	<i>Posey.</i>
John B. Howe, ...	<i>La Grange.</i>
Wilson Huff, ...	<i>Spencer.</i>
John D. Johnson, ...	<i>Dearborn.</i>
W. R. Johnson, ...	<i>Orange.</i>
Smith Jones, ...	<i>Bartholomew.</i>
Danl. Kelso, ...	<i>Ohio and Switzerland.</i>
Phineas M. Kent, ...	<i>Floyd.</i>
Harrison Kindall, ...	<i>Miami and Wabash.</i>
Robert C. Kindall, ...	<i>Warren, White, Benton and Jasper.</i>
David Kilgore, ...	<i>Delaware.</i>
Isaac Kinley, ...	<i>Henry.</i>
James Lockhart, ...	<i>Posey and Vanderburgh.</i>
Ezekiel D. Logan, ...	<i>Washington.</i>
Douglass Maguire, ...	<i>Marion.</i>
Walter March, ...	<i>Grant and Delaware.</i>
Joseph H. Mather, ...	<i>Elkhart and La Grange.</i>
John Mathes, ...	<i>Harrison.</i>
Edward Ralph May, ...	<i>DeKalb and Steuben.</i>
Beattie McClelland, ...	<i>Randolph.</i>
Joel B. McFarland, ...	<i>Tippecanoe.</i>
William McLean, ...	<i>Boone.</i>
Cornelus I. Miller, ...	<i>Clinton and Tipton.</i>
Hugh Miller, ...	<i>Marshall and Fulton.</i>
Smith Miller, ...	<i>Gibson, Pike and Dubois.</i>
Dixon Milligan, ...	<i>Jay and Blackford.</i>
Robert H. Milroy, ...	<i>Carroll.</i>
S. P. Mooney, ...	<i>Jackson.</i>
George W. Moore, ...	<i>Owen.</i>
Jesse Morgan, ...	<i>Rush.</i>
A. F. Morrison, ...	<i>Marion.</i>
John I. Morrison, ...	<i>Washington.</i>
Daniel Mawrer, ...	<i>Henry.</i>

Elias Murray, ...	<i>Huntington, Whitley and Kosciusko.</i>
Christian C. Nave, ...	<i>Hendricks.</i>
John S. Newman,.....	<i>Wayne.</i>
Jno. B. Niles, ...	<i>La Porte.</i>
Wm. R. Nofsinger,.....	<i>Parke.</i>
Robert Dale Owen,.....	<i>Posey.</i>
Abel C. Pepper,.....	<i>Ohio and Switzerland.</i>
Samuel Pepper,.....	<i>Crawford.</i>
John Pettit, ...	<i>Tippecanoe.</i>
Hiram Prather, ...	<i>Jennings and Bartholomew.</i>
James Rairden, ...	<i>Wayne.</i>
J. G. Read,.....	<i>Clarke.</i>
Daniel Read,.....	<i>Brown and Monroe.</i>
Joseph Ristine, ...	<i>Fountain.</i>
James Ritchey,.....	<i>Johnson.</i>
Joseph Robinson, ...	<i>Decatur.</i>
R. Schoonover,.....	<i>Washington.</i>
David A. Shannon,.....	<i>Montgomery.</i>
W. F. Sherrod.....	<i>Orange and Crawford.</i>
Geo. G. Shoup,.....	<i>Franklin.</i>
Stephen Sims,.....	<i>Clinton.</i>
Ross Smiley,.....	<i>Fayette.</i>
Henry T. Snook,.....	<i>Montgomery.</i>
H. S. Smith, ...	<i>Scott.</i>
Thomas Smith,.....	<i>Ripley.</i>
John L. Spann, ...	<i>Jennings.</i>
Wm. Steele,.....	<i>Wabash.</i>
A. C. Stevenson, ...	<i>Putnam.</i>
George Tague, ...	<i>Hancock.</i>
Z. Tannehill,.....	<i>Bartholomew.</i>
E. D. Taylor,.....	<i>La Porte.</i>
Wm. W. Thomas,.....	<i>Fayette.</i>
Henry P. Thornton,.....	<i>Floyd.</i>
Henry G. Todd,.....	<i>Hendricks.</i>
Daniel Trembly, ...	<i>Fayette and Union.</i>
David Wallace,.....	<i>Marion.</i>
Thomas D. Walpole, ...	<i>Hancock.</i>
Johnson Watts, ...	<i>Dearborn.</i>
A. L. Wheeler.....	<i>Marshall, Fulton and Stark.</i>
Spencer Wiley,.....	<i>Franklin.</i>
Benjamin Wolfe,.....	<i>Sullivan.</i>
Jacob Wunderlich,.....	<i>Huntington and Whitley.</i>
Francis B. Yocum,.....	<i>Clay.</i>
John Zenor,.....	<i>Harrison.</i>



IOWA.

Iowa was included in the Louisiana purchase from France, April 30, 1803, and upon the formation of the Territory of Orleans, March 26, 1804, it remained in that portion designated as the "District of Louisiana," which was then temporarily attached to Indiana Territory. On the 3d of March in the year following, it was formed into a separate provisional government, as the "Territory of Louisiana." On the formation of the "State of Louisiana" in 1812, the name of this territory was changed (June 4) into that of the "Territory of Missouri."

On the 6th of March, 1820, the State of Missouri was authorized to be formed, and the remainder of the territory was left without special provisions for its government.

The region bounded east by the Mississippi river, south by the State of Missouri, and west by the Missouri and White Earth rivers, was attached, June 28, 1834, to Michigan Territory. On the formation of Wisconsin Territory, April 20, 1836, its boundaries included all that portion above described, lying west of the Mississippi. This arrangement was regarded as only temporary; and on the 19th of December of the same year, a resolution passed the House of Representatives, directing the Committee on Territories to inquire into the expediency of erecting a new territory out of the southern portion of the then Territory of Wisconsin. This committee, after investigating the subject, reported a resolution to that effect, which passed the House December 14, 1837. Memorials and petitions from the people, and from the Wisconsin Territorial Legislature, were presented for this purpose in both Houses of Congress; and on the 12th of June, 1838, a bill was approved, which took effect from and after July 3 of that year, for the formation of the Territory of Iowa, to include that part of Wisconsin Territory west of the Mississippi, between the State of Missouri and the northern boundary of the United States.

The eastern boundary of the Territory was fixed by an act of March 3, 1839, as the middle of the channel of the Mississippi river. On the south, its boundary with Missouri was for a time in dispute, and became the subject of many reports and much discussion. It was finally referred to the Supreme Court of the United States for decision. At the January term in 1849, a decision was made, by adopting the old Indian boundary line surveyed by Commissioners in 1816, under a treaty with the Osage tribe. This began on the meridian of the mouth of the Kansas river, one hundred miles north of that point, and run slightly north of east to the Des Moines river; and was intermediate between the lines claimed respectively by the two States.¹ The court appointed Commissioners to run and mark this line, and their report was confirmed December, 1850.²

A bill to enable the people of Iowa to form a State government was reported by the Committee on Territories in the House of Representatives on the 5th of March, 1840, and again April 2, 1844; but in neither case did it lead to the passage of an enabling act by Congress. The population of the Territory had in 1844 reached 81,920, and the Territorial Legislature, believing that they were justly entitled to the right, by virtue of the treaty of cession under which Louisiana had been transferred, which stipulated that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and

¹ *Missouri v. Iowa*, 7 How. 660.

² S. C., 10 How. 1.

admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States," proceeded to call a Convention for preparing a Constitution. It met at Iowa City on the 7th of October, and on the 1st of November, 1844, agreed upon a Constitution, which proposed to include within the boundaries of the State a more extensive territory than the present. The north-western line was to extend from the mouth of the Big Sioux or Calumet river, to St. Peter's river, where the Watonwan river (according to Nicollet's map) enters the same: thence down the main channel of said river to the Mississippi, including within the proposed limits some of the richest portions of the present State of Minnesota.

On the 9th of December, 1844, a memorial of the Convention, and a copy of the proposed Constitution, was received in the Senate, and on the 12th in the House of Representatives. A bill was passed March 3, 1845, consenting to the admission of Iowa as a State, but reducing very materially the boundaries on the north and west. By this act it was proposed to limit the State on the north by a parallel of latitude passing through the mouth of the Mankato or Blue Earth river, and on the west by the meridian of 17° 30' west from Washington. While this boundary extended about forty-five miles further north than the present limit of the State, it cut off a very large area on the west. The proposition was so distasteful to the people that it was rejected at a popular election which was required to be held under the act, and the project of admission for the time failed. The vote was 7,235 *for*, and 7,656 *against*.

On the 4th of August, Congress defined the northern boundary of the State as the line of 43° 30' north latitude, and its western, the Missouri and Big Sioux rivers. A second Constitutional Convention, called by the Territorial Legislature, which met at Iowa City May 4th, agreed upon a Constitution May 18, and adjourned May 19, 1846. The Constitution adopted by this Convention was sanctioned by the people, at an election held on the 3d of August, by a vote of 9,492 to 9,036. The State was admitted into the Union by an act of Congress, approved December 8, 1846.

Certain propositions that had been made in 1845, relative to grants of land for public purposes, the reservation of salt springs and the application of certain moneys to public improvements, were accepted by an act of the General Assembly of the State of Iowa, January 15, 1849.

The question of amending this Constitution was agitated several years, a large class of the people being anxious to repeal the restrictions upon banking, and to make certain changes in relation to the election of Judges of the Supreme Court, etc. Finally, on the 24th of January, 1855, the Legislature of Iowa passed an act submitting to the people the question of calling a Convention, which was sanctioned, and an election of delegates was held in November, 1856. The Convention met in Iowa city January 19, 1857, and on the 5th of March agreed upon the present Constitution, which was ratified on the 3d of August, 1857, by a vote of 40,311 to 38,681. It was declared adopted by a proclamation of the Governor, September 3, 1857.

The word "white" was stricken out of Articles II, III and VI, where it had been used in defining the qualifications of electors, the basis of representation, and the obligation of militia duty, by an act of the Legislature in 1867 and 1868, voted upon by the people, and officially proclaimed by the Governor. The vote upon this question was 105,384 for striking out, and 81,384 against.

As required by Article X, section 3, the question of calling a Convention to revise the Constitution was submitted to the voters at the general election in October, 1870, and the returns showed a majority largely *against* that measure.

CONSTITUTION OF IOWA, 1857.

SUMMARY.

ARTICLES.

- I. Bill of Rights.
- II. Right of Suffrage.
- III. Of the Distribution of Powers — Legislative Department.
- IV. Executive Department.
- V. Judicial Department.
- VI. Militia.
- VII. State Debts.
- VIII. Corporations.
- IX. Education and Schools.
- X. Amendments to the Constitution.
- XI. Miscellaneous.
- XII. Schedule.

PREAMBLE.

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2. Origin of political power — object of government — right to alter its form.
3. No religion to be fixed by law — freedom of religious opinion.
4. Religious tests forbidden — right of witnesses — parties to suits may be witnesses.
5. Duelling to disqualify from holding office.
6. General laws to be uniform in operation — exclusive rights forbidden.
7. Freedom of speech and of the press — prosecutions for libel.
8. Exemption from illegal seizures and searches.
9. Right of trial by jury — less than twelve men may act as Jurors — trials to be according to law.
10. Rights of persons accused of crime — counsel.
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6. State bank may be established.
7. To be founded on an actual specie basis.
8. Conditions of a general banking law.

SECTIONS.

9. Liability of bank stockholders.
10. Bill holders to have preference in case of insolvency.
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PREAMBLE.

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri — as established by the Constitution of that State, adopted June 12, 1820 — crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of the said Mississippi river to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain unalienable rights — among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

§ 3. The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

§ 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

§ 5. Any citizen of this State who may hereafter be engaged either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the Constitution and laws of this State.

§ 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen or class of citizens privileges or immunities, which upon the same terms shall not equally belong to all citizens.

§ 7. Every person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and justifiable ends, the party shall be acquitted.

§ 8. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

§ 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

§ 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him, to have compulsory process for his own witnesses; and to have the assistance of counsel.

§ 11. All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or

other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger.

§ 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great.

§ 13. The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

§ 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in the time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

§ 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

§ 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

§ 18. Private property shall not be taken for public use without just compensation first being made, or secured, to be paid to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

§ 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

§ 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their Representatives, and to petition for a redress of grievances.

§ 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

§ 22. Foreigners who are, or may hereafter become, residents of this State shall enjoy the same rights in respect to the possession, enjoyment and descent of property, as native-born citizens.

§ 23. There shall be no slavery in this State ; nor shall there be involuntary servitude, unless for the punishment of crime.

§ 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

§ 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every ¹ male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county, in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

§ 2. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

§ 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

§ 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

§ 5. No idiot or insane person, or persons convicted of any infamous crime, shall be entitled to the privilege of an elector.

§ 6. All elections by the people shall be by ballot.

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

SECTION 1. The powers of the Government of Iowa shall be divided into three separate Departments: The Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these Departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of

¹ The word "white" stricken out in 1868.

Representatives; and the style of every law shall be: "*Be it enacted by the General Assembly of the State of Iowa.*"

§ 2. The sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members, unless the Governor of the State shall, in the mean time, convene the General Assembly by proclamation.

§ 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the Presidential election, when the election shall be on the Tuesday next after the first Monday in November, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

§ 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

§ 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

§ 6. The number of Senators shall not be less than one-third, nor more than one-half of the Representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of Senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

§ 7. Each House shall choose its own officers, and judge of the qualification, election and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

§ 8. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

§ 9. Each House shall sit upon its own adjournment, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

§ 10. Every member of the General Assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals ; and the yeas and nays of the members of either House, on any question, shall, at the desire of any two members present, be entered on the journals.

§ 11. Senators and Representatives, in all cases except treason, felony or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.

§ 12. When vacancies occur in either House, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.

§ 13. The doors of each House shall be open except on such occasions as in the opinion of the House may require secrecy.

§ 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 15. Bills may originate in either House, and may be amended, altered or rejected by the other ; and every bill having passed both Houses shall be signed by the Speaker and President of their respective Houses.

§ 16. Every bill which shall have passed the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it ; but if not, he shall return it with his objections to the House in which it originated, which shall enter the same upon their journal, and proceed to consider it ; if, after such reconsideration, it again pass both Houses by ayes and nays, by a majority of two-thirds of the members of each House, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have been presented to him (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly shall be deposited by him in the office of the Secretary of State within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

§ 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

§ 18. An accurate statement of the receipts and expenditures of the

public money shall be attached to and published with the laws at every regular session of the General Assembly.

§ 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

§ 20. The Governor, Judges of the Supreme and District Courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the General Assembly may provide.

§ 21. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

§ 22. No person holding any lucrative office under the United States or this State, or any other power, shall be eligible to hold a seat in the General Assembly; but offices in the militia, to which there is no annual salary, or the office of Justice of the Peace, or Postmaster, whose compensation does not exceed one hundred dollars per annum, or Notary Public, shall not be deemed lucrative.

§ 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

§ 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

§ 25. Each member of the first General Assembly under this Constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles' travel in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no General Assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

§ 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the 4th day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

§ 27. No divorce shall be granted by the General Assembly.

§ 28. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

§ 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But, if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

§ 30. The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town plats, streets, alleys, or public squares;

For locating or changing county seats;

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State; and no law changing the boundary lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for or against it.

§ 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the General Assembly.

§ 32. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States,

and the Constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator (or Representative, as the case may be), according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the oath or affirmation.

§ 33. The General Assembly shall, in the years 1859, 1863, 1865, 1867, 1869, and 1875, and every ten years thereafter, cause an enumeration to be made of all the inhabitants¹ of the State.

§ 34. The number of Senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of inhabitants¹ of each.

§ 35. The Senate shall not consist of more than fifty members, nor the House of Representatives of more than one hundred; and they shall be apportioned among the several counties and Representative districts of the State according to the number of inhabitants¹ in each, upon ratios to be fixed by law. But no Representative district shall contain more than four organized counties, and shall be entitled to one Representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law shall be entitled to one Representative; and any one county containing in addition to the ratio fixed by law one-half of that number or more shall be entitled to one additional Representative. No floating district shall hereafter be formed.

§ 36. At its first session under this Constitution, and at every subsequent regular session, the General Assembly shall fix the ratio of representation, and also form into Representative districts those counties which will not be entitled singly to a Representative.

§ 37. When a Congressional, Senatorial, or Representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a Congressional, Senatorial, or Representative district.

§ 38. In all elections by the General Assembly, the members thereof shall vote *viva voce*; and the votes shall be entered on the journal.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The Supreme Executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa.

¹ The word "white" before "inhabitants" was stricken out in 1868.

§ 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

§ 3. There shall be a Lieutenant-Governor, who shall hold his office two years, and be elected at the same time with the Governor. In voting for Governor and Lieutenant-Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant-Governor. The return of every election for Governor and Lieutenant-Governor shall be sealed up and transmitted to the seat of government of the State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

§ 4. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of said persons Governor, or Lieutenant-Governor, as the case may be.

§ 5. Contested elections for Governor, or Lieutenant-Governor, shall be determined by the General Assembly in such manner as may be prescribed by law.

§ 6. No person shall be eligible to the office of Governor, or Lieutenant-Governor, who shall not have been a citizen of the United States, and a resident of this State for two years next preceding the election, and attained the age of thirty years at the time of said election.

§ 7. The Governor shall be Commander-in-Chief of the militia and the army and navy of this State.

§ 8. He shall transact all executive business with the officers of government, civil and military; and may require information in writing, from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

§ 9. He shall take care that the laws are faithfully executed.

§ 10. When any office shall from any cause become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.

§ 11. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

§ 12. He shall communicate, by message, to the General Assembly,

at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

§ 13. In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly.

§ 14. No person shall, while holding any office under the authority of the United States or this State, execute the office of Governor, except as hereinafter expressly provided.

§ 15. The official term of the Governor and Lieutenant-Governor shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The Lieutenant-Governor, while acting as Governor, shall receive the same pay as provided for Governor; and while presiding in the Senate, shall receive, as compensation therefor, the same mileage and double the per diem pay provided for a Senator, and none other.

§ 16. The Governor shall have power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

§ 17. In case of the death, impeachment, resignation, removal from office or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant-Governor.

§ 18. The Lieutenant-Governor shall be President of the Senate, but shall only vote when the Senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tempore*.

§ 19. If the Lieutenant-Governor, while acting as Governor, shall be impeached, displaced, resign or die, or otherwise become incapable

of performing the duties of the office, the President *pro tempore* of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

§ 20. There shall be a seal of this State which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

§ 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor and countersigned by the Secretary of State.

§ 22. The Secretary of State, Auditor of State, and Treasurer of State, shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power shall be vested in a Supreme Court, District Courts, and such other courts, inferior to the Supreme Court, as the General Assembly may from time to time establish.

§ 2. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum to hold court.

§ 3. The Judges of the Supreme Court shall be elected by the qualified voters of the State, and shall hold their court at such time and place as the General Assembly may prescribe. The Supreme Judges so elected shall be classified so that one Judge shall go out of office every two years; and the Judge holding the shortest term of office under such classification shall be Chief Justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The Judges of the Supreme Court shall be ineligible to any other office in the State during the term for which they shall have been elected.

§ 4. The Supreme Court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a Court for the Correction of Errors at law, under such restrictions as the General Assembly may by law prescribe; and shall have power to issue all writs and process

necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

§ 5. The District Court shall consist of a single Judge, who shall be elected by the qualified voters of the district in which he resides. The Judge of the District Court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of Supreme Judge, during the term for which he was elected.

§ 6. The District Court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

§ 7. The Judges of the Supreme and District Courts shall be conservators of the peace throughout the same.

§ 8. The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

§ 9. The salary of each Judge of the Supreme Court shall be two thousand dollars per annum; and that of each District Judge sixteen hundred dollars per annum, until the year 1860; after which time they shall severally receive such compensation as the General Assembly may by law prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

§ 10. The State shall be divided into eleven judicial districts; and, after the year 1860, the General Assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of Judges of the said court, and may increase the number of Judges of the Supreme Court; but such increase or diminution shall not be more than one district, or one Judge of either court, at any one session; and no reorganization of the districts, or diminution of the Judges, shall have the effect of removing a Judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of Judges, shall take place every four years thereafter, if necessary, and at no other time.

§ 11. The Judges of the Supreme and District Courts shall be chosen at the general election; and the term of office of each Judge shall commence on the first day of January next after his election.

§ 12. The General Assembly shall provide, by law, for the election of an Attorney-General by the people, whose term of office shall be two years, and until his successor is elected.

§ 13. The qualified electors of each Judicial District shall, at the time of election of District Judge, elect a District Attorney, who shall be a resident of the district for which he is elected, and shall hold his

office for the term of four years, and until his successor shall have been elected and qualified.

§ 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of the State.

ARTICLE VI.

MILITIA.

SECTION 1. The militia of this State shall be composed of all able-bodied male citizens between the age of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained, as the General Assembly may provide by law.

§ 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace; *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

§ 3. All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

ARTICLE VII.

STATE DEBTS.

SECTION 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume or become responsible for the debts or liabilities of any individual, association or corporation.

§ 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

§ 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State,

in favor of the respective fund sustaining the loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

§ 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

§ 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for or against it at such election; and all the money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

§ 6. The Legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt or liability under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrevocable, and be annually collected, until the principal and interest are fully paid.

§ 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

§ 2. The property of all corporations for pecuniary profit now existing, or hereafter created, shall be subject to taxation, the same as that of individuals.

§ 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

§ 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

§ 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

§ 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State bank, with branches.

§ 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended to circulate as money.

§ 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit, designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest-paying stocks of States in good credit and standing, to be rated at ten per cent below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

§ 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

§ 10. In case of the insolvency of any banking institution, the bill holders shall have a preference over its other creditors.

§ 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

§ 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX.

EDUCATION AND SCHOOLS.

1st. — *Education.*

SECTION 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant-Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

§ 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and been one year a citizen of the State.

§ 3. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the Board shall be chosen every two years thereafter.

§ 4. The first session of the Board of Education shall be held at the seat of government, on the first Monday of December after their election; after which the General Assembly may fix the time and place of meeting.

§ 5. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except on extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a special session.

§ 6. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published

and distributed in the same manner as the journals of the General Assembly.

§ 7. All rules and regulations made by the Board shall be published and distributed to the several counties, townships and school districts, as may be provided for by the Board, and when so passed, published and distributed, they shall have the force and effect of law.

§ 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended or repealed, they shall not be re-enacted by the Board of Education.

§ 9. The Governor of the State shall be, *ex officio*, a member of said Board.

§ 10. The Board shall have power to levy taxes or make appropriations of money. The contingent expenses shall be provided for by the General Assembly.

§ 11. The State University shall be established at one place without branches at any other place, and the university fund shall be applied to that institution, and no other.

§ 12. The members of the Board of Education shall provide for the education of all the youths of the State through a system of common schools. And such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school fund.

§ 13. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

§ 14. The majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation or law for the regulation and government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all the acts of the Board shall be: "Be it enacted by the Board of Education of the State of Iowa."

§ 15. At any time after the year of 1863, the General Assembly shall have power to abolish or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

2d. — *School Funds and School Lands.*

SECTION 1. The educational and school funds and lands shall be under the control and management of the General Assembly of this State.

§ 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

§ 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may have been granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

§ 4. The money which may have been, or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school-districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall, from time to time, provide.

§ 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may thereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of a University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of the University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the

General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

§ 6. The financial agents of school funds shall be the same that, by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

§ 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the General Assembly.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

§ 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

§ 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the General Assembly may, by law, provide, the question: "Shall there be a Convention to revise the Constitution and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a Convention for such purpose.

the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention.

ARTICLE XI.

MISCELLANEOUS.

SECTION 1. The jurisdiction of Justices of the Peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise), where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

§ 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

§ 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding five per centum on the value of the taxable property within such county or corporation — to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.

§ 4. The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.

§ 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

§ 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

§ 7. The General Assembly shall not locate any of the public lands, which have been or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

§ 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson.

ARTICLE XII.

SCHEDULE.

SECTION 1. This Constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

§ 2. All laws now in force, and not inconsistent with this Constitution, shall remain in force until they shall expire or be repealed.

§ 3. All indictments, prosecutions, suits, pleas, complaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law, and all offenses, misdemeanors, and crimes that may have been committed before the taking effect of this Constitution, shall be subject to indictment, trial and punishment, in the same manner as they would have been had not this Constitution been made.

§ 4. All fines, penalties or forfeitures, due or to become due, or accruing to the State, or to any county therein, or to the school fund, shall inure to the State, county or school fund, in the manner prescribed by law.

§ 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

§ 6. The first election under this Constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the Governor and Lieutenant-Governor. There shall also be elected at such election the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted by the seventh General Assembly of the State.

§ 7. The first election for Secretary, Auditor, and Treasurer of State; Attorney-General, District Judges, members of the Board of Education, District Attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the Superintendent of Public Instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except Prosecuting Attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight; *Provided*, That the time for which any District Judge or any other State or county officer,

elected at the April election in 1858, shall not extend beyond the time fixed for filling like offices at the October election.

§ 8. The first election for Judges of the Supreme Court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

§ 9. The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty eight, commencing on the second Monday of January of said year.

§ 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

§ 11. Every person elected by popular vote, by a vote of the General Assembly, or who may hold office by executive appointment, which office is continued by this Constitution, and every person who shall be so elected or appointed to any such office before the taking effect of this Constitution (except as in this Constitution otherwise provided), shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office, after taking effect of this Constitution, for a longer period than the term of such office in this Constitution prescribed.

§ 12. The General Assembly, at the first session under this Constitution, shall district the State into eleven Judicial Districts, for District Court purposes, and shall also provide for the apportionment of the members of the General Assembly, in accordance with the provisions of this Constitution.

§ 13. The foregoing Constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the Constitution, "New Constitution — Yes." Those against the Constitution, "New Constitution — No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the Code, and abstracts shall be forwarded to the Secretary of State, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election, for and against this Constitution, are in favor of the same,

the Governor shall immediately issue his proclamation stating that fact, and such Constitution shall be the Constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

§ 14. At the same election that this Constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white" from the article on the "Right of Suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in manner following, viz.: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' Yes." And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this Constitution, then said word "white" shall be stricken from said article, and be no part thereof.

§ 15. Until otherwise directed by law, the county of Mills shall be in and a part of the Sixth Judicial District of this State.

Done in Convention, at Iowa City, this fifth day of March, in the year of our Lord 1857, and of the Independence of the United States the eighty-first. In testimony whereof we have hereunto subscribed our names:

Timothy Day,
S. G. Winchester,
David Bunker,
D. P. Palmer,
Geo. W. Ellis,
J. C. Hall,
John H. Peters,
Wm. H. Warren,
H. W. Gray,
Robert Gower,
H. D. Gibson,
Thomas Seely,

A. H. Marvin,
J. H. Emerson,
R. L. B. Clarke,
James A. Young,
D. H. Solomon,
M. W. Robinson,
Lewis Todhunter,
John Edwards,
J. C. Traer,
James F. Wilson,
Amos Harris,
John T. Clark,

S. Ayres,
Harvey J. Skiff,
J. A. Parvin,
W. Penn Clarke,
Jer. Hollingworth,
Wm. Patterson,
D. W. Price,
Alpheus Scott,
George Gillaspay,
Edward Johnston.

FRANCIS SPRINGER,

President.

Attest:

THOMAS J. SAUNDERS, *Secretary.*

ELLSWORTH N. BATES, *Assistant Secretary.*



KANSAS.

Kansas was included in the Louisiana purchase of April 30, 1803, excepting a small portion west of 100° west longitude from Greenwich, and south of the Arkansas river, which was included within the limits of Mexico by the Spanish treaty of 1819, and was acquired by the United States by the treaty with Mexico, February 2–May 25, 1848. It was left beyond the northern limits assigned to the State of Texas September 9, 1850. On the 26th of March, 1804, the Louisiana part of Kansas was included in the "District of Louisiana," and attached to Indiana Territory. On the 3d of March, 1805, this district became the "Territory of Louisiana," and on the 4th of June, 1812, the "Territory of Missouri." On the 6th of March, 1820, measures were authorized for the formation of the State of Missouri, and after its admission, August 10, 1821, the remainder of the territory remained for many years without organization.

Settlement west of the State of Missouri had been delayed for a time by Indian reservations, which were not open for purchase; but in December, 1853, a bill was introduced in the Senate, providing for the erection of a Territory, to be known as the "Territory of Nebraska," to include that portion between the summit of the Rocky Mountains and the States of Iowa and Missouri, lying between the parallels of 36° 30' and 43° 30' north latitude. This bill was referred to the Committee on Territories, and on the 4th of January, 1854, it was reported back by Mr. Douglass, of Illinois, chairman of this committee, with important amendments. Subsequently a substitute for the original bill was introduced by this Senator, which provided for the formation of two Territories—Kansas and Nebraska—and which repealed or abrogated the "Missouri Compromise" of 1820, respecting the restriction of slavery.

The discussions which followed upon this bill, formed the leading theme of interest in the first session of the 33d Congress, and the whole country was aroused to the importance of the measures proposed. Public meetings were held in numerous places, resolutions of approval or disapproval passed by State Legislatures, and vehement discussions, petitions and remonstrances, everywhere indicated the intensity of partisan and sectional feeling which had been awakened. The bill passed the Senate March 4th, by a vote of 37 to 14, and a similar bill was passed by the House of Representatives, May 23, 1854, by a vote of 113 to 100. Some amendments having been made, the final passage and approval did not occur until May 30th. The "Territory of Kansas" thus established included the region between 37° and 40° north latitude, bounded east by Missouri State and river, and west by the meridian of 130° west longitude from 37° to 38°, and from 38° to 40° by the summit of the Rocky Mountains, on the eastern border of Utah.

The organic law of these territories left the question of slavery for the future decision of the inhabitants, when the time should arrive for the formation of State governments. The laws of the United States not locally inapplicable, were extended over these territories—except the eighth section of the act preparatory to the admission of Missouri in 1820, "which, being inconsistent with the principles of non-intervention by Congress with slavery in the States and territories, as recognized by the legislation of 1850, commonly called the Compromise Measures, is hereby declared inoperative and void, it being the true intent and meaning of the act not to legislate slavery into any State or ter-

ritory, or exclude it therefrom: but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of March 6, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

The opportunity was thus given to each of the two great sectional parties of the country, holding opposite views upon the subject of slavery extension, to gain, by diligent effort, the first ascendancy, with the view of controlling the future destinies of the States that might be formed from these Territories, and, as the partisans of slavery hoped, of securing at least one slave State.

Treaties were secretly made for the sale of reserved Indian lands, of which private notice was given to pro-slavery men only; irregular and nominal occupation of lands was taken, and efforts were made to secure the appointment of Territorial officers favoring the pro-slavery interests.

Both parties manifested a disposition to gain possession and control, but those in the slavery interest, being nearer the field of operations, were able to secure the first advantages, before the Emigration and Aid Societies formed in the Northern States could arrive. It appears, from a Congressional investigation ordered in 1856, that before any elections were held in the Territory, a secret political society was formed in the State of Missouri, the members of which were bound by oaths and penalties, and the purpose of which was not only to extend slavery into Kansas, but into other Territories of the United States, and to form a union of all the friends of that institution throughout the country. They had pass-words, signs, and other means of recognition; held their lodges in secret, and became extensively organized in Missouri and elsewhere. Their plan of operation was to organize and send men to vote at elections in the Territory, to collect money to pay their expenses, and, if necessary, to protect them in voting.¹ The first elections were accordingly controlled by armed parties from the Missouri border, who came over in great numbers to vote at the elections.

According to the report of a committee of Congress appointed to investigate these frauds, it appears that at the first election, held November 29, 1854, for a Delegate in Congress, there were 1,114 legal and 1,729 illegal votes cast, a large majority being cast by citizens of the State of Missouri in violation of the laws of the Territory.

At the next election, held March 30, 1855, for members of the Territorial Legislature, 1,410 legal and 4,908 illegal votes were cast.² By a census taken in January and February preceding this election, the number of resident voters was reported as 2,905, and many of these were prevented from voting by the violence and threats of the Missouri mob. Of the votes counted 5,427 were for pro-slavery and 791 for Free-State candidates. Protests having been entered against the regularity of this election, Governor Reeder ordered a special election to be held on the 22d of May, 1855, in six of the districts, at which Free-State candidates were elected, but these were subsequently deprived of their seats by the majority.

The Territorial Legislature, thus elected by violence and fraud, met at Pawnee, near Fort Riley, July 2d, but two days afterward adjourned to Shawnee Mission, near the Missouri line, where they re-assembled July 16th, and remained in session until August 30. During this period they enacted a code of laws, mainly copied from that of Missouri, but embracing many absurd and incoherent pro-

¹ Report of Special Committee on Troubles in Kansas: p. 3, 1st session, 34th Congress.

² *Ib.* p. 30.

visions. An attempt was subsequently made in Congress to annul these proceedings, but the bill for that purpose, after passing the House of Representatives by a vote of 98 to 79, failed in the Senate.

Among other doings of this Legislature, was the passage of a law fixing the seat of government of the new Territory at Lecompton.

The first step toward the formation of a State, was the calling of a meeting by "many voters" at Lawrence, on the 14th of August, 1855, to consider the propriety of calling a Territorial Convention for the formation of a State government and other objects of public interest. The meeting was held, and resolutions passed requesting all *bona fide* citizens of Kansas Territory to elect Representatives for a Convention to assemble at Topeka on the 19th day of September, 1855, then and there to consider and determine upon all subjects of public interest, and particularly upon that having reference to the speedy formation of a State Constitution, with an intention of immediate application to be admitted as a State into the Union.

A Convention numerously attended met at Big Springs September 5th, at which resolutions were passed denouncing the Legislative Assembly as having been fraudulently elected by a horde of pro-slavery voters from Missouri, and advising "resistance to a bloody issue as soon as it could be ascertained that peaceable remedies should fail and forcible resistance furnish any reasonable prospect of success." They also recommended the formation of volunteer companies and the procurement and preparation of arms. They especially repudiated the election law recently enacted, and fixed upon the 9th day of October, instead of the 1st, for the election of a Delegate to Congress. Each party elected a Delegate on the days above named, and neither party attempted to vote at the elections appointed by the other. Both Delegates attended, but neither was admitted to a seat in Congress, although each one was allowed his mileage.

The Convention met at Topeka on the 19th of September, and determined to hold another Convention at the same place on the 4th Tuesday of October for the purpose of forming a State Constitution, and issued notices, designated places, and established regulations for the election of Delegates and for the assembling of that body. This Convention met at Topeka October 23d, and prepared a Constitution, which was completed November 12th, and submitted to the people on the 15th of December, 1855, and being largely approved by those who voted, (1,731 to 46), was proclaimed duly adopted by the Chairman of the Executive Committee.¹

An election of State officers was held under it January 15, 1856, but not without violence and bloodshed, and a free-State Legislature met at Topeka, March 4, and adjourned to July 4th. Upon re-assembling it was forcibly dispersed by troops of the United States under Colonel Sumner.

The proceedings which led to the formation of the Topeka Constitution were altogether without legal authority, and they could only be justified by its friends upon the plea of necessity. To the Administration they were particularly offensive, and President Pierce, in a message to Congress of January 24, 1856, in speaking of the Topeka Constitution, said: "No principle of public law; no practice or precedent under the Constitution of the United States; no rule of reason, right, or common sense, confers any such power as that now claimed by a mere party in the Territory. In fact, what has been done is of a revolutionary character. It is avowedly so in motive and in aim, as respects the local law of the

¹ The Topeka Constitution is published at large in the voluminous Congressional Report of the Special Committee on Troubles in Kansas (Rep. 200, 1st Sess. 34th Cong.), p. 617-640. It is also printed in House Miscellaneous Doc. No. 83, vol. ii, 1st Sess. 34th Cong.

Territory. It will become treasonable insurrection if it reach the length of organized resistance by force to the fundamental or any other Federal law, and to the authority of the general government."

Still the Topeka Constitution had its friends, both in and out of Congress, and discussions bearing upon the question of freedom and slavery continued to engage the public mind throughout the country, and became a leading issue in the Presidential campaign of 1856. Immediately after the adjournment of the Topeka Convention, the leaders of the pro-slavery party called a "law and order Convention," which met at Leavenworth November 14, 1855. This body passed resolutions denouncing the proceedings of the late Constitutional Convention, and sustaining the policy and measures of the Administration.

The Territorial Legislature had, in the mean time, taken the sense of the people upon the question of a Convention, at an election held in October, 1856, and a majority having voted in favor of such Convention (2,592 to 454) — the Free-State men generally not voting — the Legislature, on the 19th of February, 1857, passed an act for an election of Delegates, June 15th, to meet in Convention on the first Monday of September, for the purpose of forming a State Constitution preparatory to admission into the Union. The bill was vetoed by Governor Geary for the reason that it did not require the Constitution, when framed, to be submitted to the people for their adoption or rejection. It was, however, passed by a two-third vote of both Houses.

A registration of voters by the Sheriffs and their deputies had been ordered, and in eighteen counties 9,251 names were enrolled; but in fifteen counties there was no registry made. The Free-State party were generally opposed to the measure, and it was said that some gave fictitious names, and others refused altogether to give their names to the enrolling officers. The law allowed sixty members to be elected, and the whole number was apportioned by the Governor among those counties in which a registry had been made.

At the election which had been ordered, the pro-slavery party alone voted.

The Convention met at Lecompton, September 5, 1857; adjourned till October, and then proceeded to frame what is known as the "Lecompton Constitution," which was signed November 7, 1857, and forwarded to President Buchanan, without being first submitted to the people. They were allowed to vote only on the insertion or rejection of the clauses by which slave property was declared to be before and higher than any Constitutional sanction, and establishing the right of holding of slaves as a part of the fundamental law of the State. The election upon this clause was appointed for December 21st, 1857, but as it was impossible to vote against slavery without voting for the Constitution, most of the Free-State men kept away from the polls, and the slavery clause was adopted by a vote of 6,226 to 569. More than half of the votes for the clause were from counties adjoining Missouri, which counties had not, in all, more than a thousand legal voters.

The boundaries of the State, proposed by the Lecompton Constitution, were to extend westward to the territories of New Mexico and Utah, including a tract now comprised within the bounds of the territory of Colorado.

The slavery sections of this Constitution were mostly copied from those of the Constitution of Kentucky, as adopted in 1850.

The President laid the Lecompton Constitution before Congress, and although the general tone of his message indicated a willingness to sign a law for the admission of Kansas under it, should Congress see fit to pass one, he did not positively recommend its adoption. He especially regretted that the Constitution had not been previously submitted to the people for their adoption, by the Convention that prepared it.

A bill was accordingly introduced, which, on the 4th of May, 1858, became a law, providing conditionally for the admission of Kansas into the Union under the Lecompton Constitution.¹

An ordinance had been passed by the Convention, asserting the undoubted right of the State to tax lands belonging to the United States within its limits, yet proposing to relinquish this asserted right, upon the acceptance by Congress of certain conditions set forth in said ordinance.

These conditions were:

1st. That sections 8, 16, 24 and 36, in every township, or if these had been already disposed of, then others of equal value, should be granted to the State for the support of schools.

2d. That all salt springs and mines of gold, silver, copper, lead or other valuable minerals, should be granted to the State, with lands necessary for their operation.

3d. That five per cent of the proceeds of the sales of land, before or after admission, as a State, should be paid, two-fifths in aid of railroads, and the residue for common schools.

4th. That seventy-two sections, or two townships, should be granted for a seminary of learning.

5th. That each alternate section, now owned or hereafter to be acquired within a distance of twelve miles on each side, should be granted for a railroad running from some point on the northern border southwardly toward the Gulf of Mexico; and an equal quantity on each side of another railroad to run west from the Missouri river, across the State toward the Pacific; and that Congress should take immediate measures to carry these provisions into effect.

Upon acceptance of these conditions, the ordinance proposed to relinquish the undoubted right of the State to tax the lands of the United States within its borders.

The act of Congress declared these conditions inadmissible, and submitted certain other propositions for acceptance or rejection by the people. If accepted, the President was authorized to announce the fact by proclamation, which should entitle Kansas to the full rights of a State; but if rejected, it was to be held that the people of Kansas did not desire admission into the Union with said Constitution under the conditions set forth in said proposition. In that event the people of the Territory were authorized and empowered to form for themselves a Constitution and State Government whenever their numbers might amount to the ratio entitled to one Representative in Congress. This ratio, under the census of 1850, was 1 to 93,420, and had the event been delayed until the apportionment of the census of 1860, it would have been 1 to 126,823.

This law, known as the "English bill," afforded the Free-State party an opportunity of defeating the Constitution, by voting against the acceptance of the conditions, which they uniformly did, at the election appointed for the decision of this question.

The majority of the Territorial Legislature, newly elected, was composed of Free-State men, and a special session of the Legislature was called by Secretary Stanton, acting Governor, at which the Lecompton Constitution, with its conditional propositions, was submitted to a vote of the people, on the 4th of January, 1859. The Free-State party had agreed, at a Convention, not to vote for

¹ The Lecompton Constitution is given entire in Reports of Committees, House, vol. 3, No. 877, and Senate Reports, vol. 1, No. 82, 1st Session, 35th Congress:

A Convention met at Mineola, March 23, 1858, adjourned to Leavenworth on the 25th, and closed its labors on the 3rd of April by publishing a Free-State Constitution, scarcely different from that prepared at Topeka. It is given entire in "Miscellaneous Docs." No. 44, 2d Session, 35th Congress, with a vote purporting to show 4,346 *for*, and 1,257 *against*, its adoption.

State officers at this election, and, as a general rule, but few of them did so. Their principal effort was to vote against the acceptance of the conditions, which was equivalent to a rejection of the Constitution itself. The result of the election gave a vote against the Constitution of 10,126: for it, with slavery, 138, and for it, without slavery, 24.

Although the Legislature had appointed this election to be held on the 4th of January, 1859, the friends of that instrument, under authority claimed to be derived from a Convention, had previously held an election on the 21st of December, 1858, at which it was claimed that 6,143 votes were returned for the Constitution with slavery, and 589 for the Constitution without slavery. The Free-State party still held, that even admitting the total vote at both elections to have been legally cast, as upon one day and at the same election, the majority would still have been largely against its adoption.

The decision as to the Lecompton State election was long in doubt, and it was charged that officials kept back the results, until it should be known whether Congress would admit the State, when the pro-slavery candidates were to be declared elected. These charges were not proved, and events tended to show that they were unfounded.

The code of laws adopted by the first Territorial Legislature was repealed, and an act referring to the people the question of a new Constitutional Convention was passed. The election was held on the 4th of April, 1859, and resulted in a majority of 5,806 to 1,425 in its favor. The old party organizations were now abandoned, and those of Republican and Democratic substituted, and on the issues of these parties the election for delegates was held on the 7th of June, 1859. The Republicans were in a majority of 35 to 17.

This Convention met at Wyandotte, on the 5th of July, 1859, and adjourned on the 29th, after adopting a Constitution by a vote of 34 to 13, all the Delegates in the minority, who were present, voting against it and refusing to sign it. They had endeavored to include the newly-discovered gold region of Pike's Peak within the State, and wished to prohibit the immigration of free colored persons, and to restrict bank issues, but failed upon each of these points.

This Constitution was submitted to the people on the 4th of October, and was approved by a vote of 10,421 to 5,530. A Delegate to Congress, and members of the Territorial Legislature were elected on the 8th of November, and a Representative to Congress, State officers and members of a State Legislature, on the 6th of December, 1859.

Application was again made for the admission of Kansas as a State, and another year passed in uncertainty under the Territorial government; but, at length, by an act approved on the 29th of January, 1861, the State was admitted into the Union, under the Wyandotte Constitution.

A portion of Kansas Territory not included within the State of Kansas, being that portion west of 25° west longitude from Washington, was included in the Territory of Colorado on the 25th of February, 1861.

CONSTITUTION OF KANSAS, 1859.

SUMMARY.

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- Bill of Rights.
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- IV. Elections.
- V. Suffrage.
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- XIII. Banks and Currency.
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- Preamble—acceptance of grant from Congress.
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 2. Seventy-two sections for a State University.
 3. Thirty-six sections for public buildings.
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 6. Five per cent of proceeds of public lands.
 7. Five hundred thousand acres granted for common schools.
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8. Right of writ of *habeas corpus*.
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22. Freedom of legislative debate—privilege of members.
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2. Convention, how called.

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3. Lotteries, and sale of lottery tickets, forbidden.
4. Public printing to be let on contract.
5. Receipts and expenditures to be published.
6. Protection of rights of married women.
7. Salaries may be reduced for neglect of legal duty.
8. Temporary seat of Government — permanent location by popular vote.
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10. Vote, how to be cast.
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14. Judges of election to take an oath — vacancies in Board, how filled.
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16. Poll-books to be furnished.
17. Votes, how counted — returns, how made.
18. Poll-books and tally-lists, how kept or returned — time for making return.
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21. Proclamation announcing result.
22. Copies to be transmitted to President, and to officers of Congress.
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RESOLUTIONS.

Congress requested to grant 4,500,000 acres for railroads and improvements; also, 50,000 acres for improvement of Kansas river; also, All swamp lands for school fund; also, \$500,000, or 500,000 acres, for payment of claims awarded to citizens of Kansas under an act of Legislature; Legislature to make provision for sale or disposal of lands granted to State, subject to right of pre-emption; The people desire admission into union with this Constitution; Congress requested to assume territorial debt.

ORDINANCE.

Whereas, the Government of the United States is the proprietor of a large portion of the lands included in the limits of the State of Kansas, as defined by this Constitution; and whereas the State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes; *Now, therefore,* Be it ordained by the people of Kansas that the right of the State of Kansas to tax such lands is relinquished forever, and the State of Kansas will not interfere with the title of the United States to such lands, nor with any regulation of Congress in relation thereto, nor tax non-residents higher than residents; *Provided always,* That the following conditions be agreed to by Congress:

SECTION 1. Sections numbered sixteen and thirty-six in each township in the State, including Indian reservations and trust lands, shall be granted to the State for the exclusive use of common schools; and when either of said sections, or any part thereof, has been disposed of,

other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

§ 2. That seventy-two sections of land shall be granted to the State for the erection and maintenance of a State University.

§ 3. That thirty-six sections shall be granted to the State for the erection of public buildings.

§ 4. That seventy-two sections shall be granted to the State for the erection and maintenance of charitable and benevolent institutions.

§ 5. That all salt springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the State for works of public improvement.

§ 6. That five per centum of the proceeds of the public land in Kansas, disposed of after the admission of the State into the Union, shall be paid to the State for a fund, the income of which shall be used for the support of common schools.

§ 7. That the five hundred thousand acres of lands to which the State is entitled under the act of Congress entitled "An act to appropriate the proceeds of the sales of public lands and grant pre-emption rights," approved September 4, 1841, shall be granted to the State for the support of common schools.

§ 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selections to be subject to the approval of the Commissioner of the General Land Office of the United States.

PREAMBLE.

We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this Constitution of the State of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

BILL OF RIGHTS.

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

§ 2. All political power is inherent in the people, and all free Governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the Legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

§ 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the Government, or any Department thereof, for the redress of grievances.

§ 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

§ 5. The right of trial by jury shall be inviolate.

§ 6. There shall be no slavery in this State; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

§ 7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of, or interference with, the rights of conscience be permitted; nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election; nor shall any person be incompetent to testify on account of religious belief.

§ 8. The right to the writ of *habeas corpus* shall not be suspended unless the public safety requires it, in case of invasion or rebellion.

§ 9. All persons shall be bailable by sufficient sureties, except for capital offenses where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

§ 10. In all prosecutions, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offense.

§ 11. The liberty of the press shall be inviolate; and all persons may freely speak, write, or publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or crim-

inal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.

§ 12. No person shall be transported from the State for any offense committed within the same, and no conviction in the State shall work a corruption of blood or forfeiture of estate.

§ 13. Treason shall consist only in levying war against the State, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

§ 14. No soldier shall, in time of peace, be quartered in any house, without the consent of the occupant, nor in time of war, except as prescribed by law.

§ 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

§ 16. No person shall be imprisoned for debt, except in case of fraud.

§ 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment, or descent of property.

§ 18. All persons, for injuries suffered in person, reputation, or property, shall have remedy by due course of law, and justice administered without delay.

§ 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by the State.

§ 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE I.

EXECUTIVE.

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Attorney-General, and Superintendent of Public Instruction, who shall be chosen by the electors of the State at the time and place of voting for members of the Legislature, and shall hold their offices for the term of two years from the second Monday of January, next after their election, and until their successors are elected and qualified.

§ 2. Until otherwise provided by law, an abstract of the returns of every election for the officers named in the foregoing section, shall be sealed up and transmitted by the Clerks of the Boards of Canvassers

of the several counties to the Secretary of State, who, with the Lieutenant-Governor and Attorney-General, shall constitute a Board of State Canvassers, whose duty it shall be to meet at the State Capital on the second Tuesday of December succeeding each election for State officers, and canvass the vote for such officers, and proclaim the result; but in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint ballot, choose one of said persons so having an equal and the highest number of votes for said office.

§ 3. The Supreme Executive power of the State shall be vested in a Governor, who shall see that the laws are faithfully executed.

§ 4. He may require information in writing from the officers of the Executive Department upon any subject relating to their respective duties.

§ 5. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.

§ 6. In case of disagreement between the two Houses in respect to the time of adjournment, he may adjourn the Legislature to such time as he may think proper, not beyond its regular meeting.

§ 7. The pardoning power shall be vested in the Governor, under regulations and restrictions prescribed by law.

§ 8. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially, and which shall be the great seal of Kansas.

§ 9. All commissions shall be issued in the name of the State of Kansas, signed by the Governor, countersigned by the Secretary of State, and sealed with the Great Seal.

§ 10. No member of Congress, or officer of the State, or of the United States, shall hold the office of Governor, except as herein provided.

§ 11. In case of the death, impeachment, resignation, removal or other disability of the Governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the President of the Senate.

§ 12. The Lieutenant-Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a President *pro tempore*, to preside in case of his absence or impeachment, or when he shall hold the office of Governor.

§ 13. If the Lieutenant-Governor, while holding the office of Governor, shall be impeached or displaced, or shall resign or die, or other-

wise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

§ 14. Should either the Secretary of State, Auditor, Treasurer, Attorney-General or Superintendent of Public Instruction, become incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this article, the Governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

§ 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

§ 16. The officers of the Executive Department, and of all public State institutions, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor, who shall transmit such reports to the Legislature.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The legislative power of this State shall be vested in a House of Representatives and Senate.

§ 2. The first House of Representatives under this Constitution shall consist of seventy-five members, who shall be chosen for one year. The first Senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of Senators and members of the House of Representatives shall be regulated by law; but shall never exceed one hundred Representatives and thirty-three Senators.

§ 3. The members of the Legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as per diem

allowance for the first session held under this Constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

§ 4. No person shall be a member of the Legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

§ 5. No member of Congress or officer of the United States shall be eligible to a seat in the Legislature. If any person, after his election to the Legislature, be elected to Congress, or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

§ 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the Legislature.

§ 7. All State officers, before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of this State, and faithfully to discharge the duties of their respective offices.

§ 8. A majority of each House shall constitute a quorum. Each House shall establish its own rules, and shall be judge of the elections, returns and qualifications of its own members.

§ 9. All vacancies occurring in either House shall be filled for the unexpired term by election.

§ 10. Each House shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal, upon the final passage of every bill or joint resolution. Neither House, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

§ 11. Any member of either House shall have the right to protest against any act or resolution; and such protest shall, without delay or alteration, be entered on the journal.

§ 12.¹ [Bills may originate in either House, but may be amended or rejected by the other.]

§ 13. A majority of all the members elected to each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

§ 14. Every bill and joint resolution passed by the House of Representatives and Senate shall, within two days thereafter, be signed by the presiding officers and presented to the Governor; if he approve, he shall sign it; but if not, he shall return it to the House of Representatives, which shall enter the objections, at large, upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-

¹ Amendment of November 8, 1864. Formerly it was required that all bills should originate in the House of Representatives.

thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the Senate, by which it shall likewise be reconsidered; and, if approved by two-thirds of all the members elected, it shall become a law. But in all such cases the vote shall be taken by yeas and nays, and entered upon the journals of each House. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the Governor, it shall become a law in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return, in which case it shall not become a law.

§ 15. Every bill shall be read on three separate days in each House, unless in case of emergency. Two-thirds of the House where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections, on its final passage, shall in no case be dispensed with.

§ 16. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended unless the new act contain the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed.

§ 17. All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a general law can be made applicable no special law shall be enacted.

§ 18. All power to grant divorces is vested in the District Courts, subject to regulation by law.

§ 19. The Legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in this Constitution.

§ 20. The enacting clause of all laws shall be: "*Be it enacted by the Legislature of the State of Kansas;*" and no law shall be enacted except by bill.

§ 21. The Legislature may confer upon tribunals transacting the county business of the several counties such powers of local legislation [and administration¹] as it shall deem expedient.

§ 22. For any speech or debate in either House the members shall not be questioned elsewhere. No member of the Legislature shall be subject to arrest, except for felony or breach of the peace, in going to or returning from the place of meeting, or during the continuance of

¹As printed in the "General Statutes of Kansas," 1868, the words in brackets are omitted. We find no amendment justifying the change.

the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

§ 23. The Legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

§ 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year.

§ 25. All sessions of the Legislature shall be held at the State capital, and all regular sessions shall commence annually on the second Tuesday of January.

§ 26. The Legislature shall provide for taking an enumeration of the inhabitants of the State at least once in ten years. The first enumeration shall be taken A. D. 1865.

§ 27. The House of Representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate; and, when sitting for that purpose, the Senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

§ 28. The Governor, and all other officers under this Constitution, shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor or trust under this Constitution; but, the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment and punishment, according to law.

ARTICLE III.

JUDICIAL.

SECTION 1. The Judicial power of this State shall be vested in a Supreme Court, District Courts, Probate Courts, Justices of the Peace, and such other courts, inferior to the Supreme Court, as may be provided by law; and all Courts of Record shall have a seal to be used in the authentication of all process.

§ 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices (a majority of whom shall constitute a quorum), who shall be elected by the electors of the State at large, and whose term of office, after the first, shall be six years. At the first election a Chief Justice shall be chosen for six years, one Associate Justice for four years, and one for two years.

§ 3. The Supreme Court shall have original jurisdiction in proceedings in *quo warranto*, *mandamus* and *habeas corpus*; and such appellate jurisdiction as may be provided by law. It shall hold one term

each year at the seat of Government, and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the State.

§ 4. There shall be appointed, by the Justices of the Supreme Court, a Reporter and Clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

§ 5. The State shall be divided into five Judicial Districts, in each of which there shall be elected, by the electors thereof, a District Judge, who shall hold his office for the term of four years. District Courts shall be held at such times and places as may be provided by law.

§ 6. The District Courts shall have such jurisdiction in their respective districts as may be provided by law.

§ 7. There shall be elected in each organized county a Clerk of the District Court, who shall hold his office two years, and whose duties shall be prescribed by law.

§ 8. There shall be a Probate Court in each county, which shall be a Court of Record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law, and shall have jurisdiction in cases of *habeas corpus*. This court shall consist of one Judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall be his own clerk, and shall hold court at such times and receive for compensation such fees as may be prescribed by law.

§ 9. Two Justices of the Peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of Justices of the Peace may be increased in any township by law.

§ 10. All appeals from Probate Courts and Justices of the Peace shall be to the District Court.

§ 11. All the judicial officers provided for by this article shall be elected at the first election under this Constitution, and shall reside in their respective townships, counties or districts, during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the Governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

§ 12. All judicial officers shall hold their offices until their successors shall have qualified.

§ 13. The Justices of the Supreme Court and Judges of the District Courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than fifteen hundred dollars to each Justice or Judge, each

year; and such Justices or Judges shall receive no fees or perquisites, nor hold any other office of profit or trust under the authority of the State, or of the United States, during the term of office for which such Justices and Judges shall be elected, nor practice law in any of the courts in the State during their continuance in office.

§ 14. Provision may be made by law for the increase of the number of Judicial Districts whenever two-thirds of the members of each House shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any Judge.

§ 15. Justices of the Supreme Court and Judges of the District Courts may be removed from office by resolution of both Houses, if two-thirds of the members of each House concur. But no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

§ 16. The several Justices and Judges of the Courts of Record in this State shall have such jurisdiction at Chambers as may be provided by law.

§ 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the State.

§ 18. Until otherwise provided by law, the First District shall consist of the counties of Wyandotte, Leavenworth, Jefferson and Jackson. The Second District shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The Third District shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Wabaunsee and Shawnee. The Fourth District shall consist of the counties of Douglass, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon and Allen. The Fifth District shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckenridge, Morris, Chase, Butler and Hunter.

§ 19. New or unorganized counties shall by law be attached for judicial purposes to the most convenient Judicial District.

§ 20. Provision shall be made by law for the selection, by the bar, of a *pro tem.* Judge of the District Court, when the Judge is absent or otherwise unable or disqualified to sit in any case.

ARTICLE IV.

ELECTIONS.

SECTION 1. All elections by the people shall be by ballot, and all elections by the Legislature shall be *viva voce*.

§ 2. General elections shall be held annually on the Tuesday suc-

ceeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law.

ARTICLE V.

SUFFRAGE.

SECTION 1. Every white¹ male¹ person of twenty-one years and upward, belonging to either of the following classes, who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election, shall be deemed a qualified elector :

1st, citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

§ 2. No person under guardianship, *non compos mentis*, or insane; [no person convicted of felony, unless restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless re-instated; no person guilty of defrauding the Government of the United States, or any of the States thereof; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; and no person who has ever voluntarily borne arms against the Government of the United States, or in any manner voluntarily aided or abetted in the attempted overthrow of said Government, except all persons who have been honorably discharged from the military service of the United States since the first day of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this State, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the Legislature.²]

§ 3.³ [For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or on the high seas, nor while a student in any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; and the Legislature may make provisions for taking the votes of electors who may be absent from

¹ Amendments were proposed by the Legislature in 1867, submitting the question of striking out these words, and in both cases the proposition was rejected. The vote on striking out the word "white" was 10,529 *for* and 19,600 *against*. On the question of female suffrage the vote was 9,200 to 19,858.

² Amendment adopted November 5, 1867. The vote on disfranchising rebels was 15,652 *for* to 12,990 *against*.

³ Amendment adopted November 4, 1864.

their townships or wards, in the volunteer military service of the United States, or the militia service of this State; but nothing herein contained shall be deemed to allow any soldier, seaman, or marine, in the regular army or navy of the United States, the right to vote.]

§ 4. The Legislature shall pass such laws as may be necessary for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

§ 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

§ 6. Every person who shall have given or offered a bribe to procure his election shall be disqualified from holding office during the term for which he may have been elected.

§ 7. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

ARTICLE VI.

EDUCATION.

SECTION 1. The State Superintendent of Public Instruction shall have the general supervision of the common school funds and educational interests of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

§ 2. The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate, and university departments.

§ 3. The proceeds of all lands that have been or may be granted by the United States to the State for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent as may be granted by Congress on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual school fund which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

§ 4. The income of the State school funds shall be disbursed annually, by order of the State Superintendent, to the several County Treasurers, and thence to the Treasurer of the several school districts, in equitable proportion to the number of children and youth resident therein between the ages of five and twenty-one years: *Provided*, That no school district, in which a common school has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

§ 5. The school lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years, not exceeding twenty-five, at a rate established by law.

§ 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied, in the several counties in which the money is paid or fines collected, to the support of common schools.

§ 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund," the interest of which shall be appropriated to the support of the State University.

§ 8. No religious sect or sects shall ever control any part of the common school or University funds of the State.

§ 9. The State Superintendent of Public Instruction, Secretary of State and Attorney-General, shall constitute a Board of Commissioners for the management and investment of the school funds. Any two of said Commissioners shall constitute a quorum.

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created shall be appointed by the Governor, by and with the advice and consent of the

Senate; and upon all nominations made by the Governor the question shall be taken by yeas and nays, and entered upon the journal.

§ 2. A penitentiary shall be established, the directors of which shall be appointed or elected as prescribed by law.

§ 3. The Governor shall fill any vacancy that may occur in the offices aforesaid, until the next session of the Legislature, and until a successor to his appointee shall be confirmed and qualified.

§ 4. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States, or of this State; but all citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempted therefrom, upon such conditions as may be prescribed by law.

§ 2. The Legislature shall provide for organizing, equipping and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

§ 3. Officers of the militia shall be elected or appointed, and commissioned in such manner as may be provided by law.

§ 4. The Governor shall be Commander-in-Chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The Legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed, so as to include an area of less than four hundred and thirty-two square miles.

§ 2. The Legislature shall provide for such county and township officers as may be necessary.

§ 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified; but no person

shall hold the office of Sheriff or County Treasurer for more than two consecutive terms.

§ 4. Township officers, except Justices of the Peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified.

§ 5. All county and township officers may be removed from office in such manner, and for such cause, as shall be prescribed by law.

ARTICLE X.

APPORTIONMENT.

SECTION 1. In the future apportionment of the State, each organized county shall have at least one Representative; and each county shall be divided into as many districts as it has Representatives.

§ 2. It shall be the duty of the first Legislature to make an apportionment, based upon the census ordered by the last Legislative Assembly of the Territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

§ 3. Until there shall be a new apportionment, the State shall be divided into election districts; and the Representatives and Senators shall be apportioned among the several districts as follows, viz.:

District.	County.	Representatives.	Senators.
1st.	Doniphan, ...	4	2
2d.	Atchison and Brown, ...	6	2
3d.	Nemaha, Marshall and Washington, ...	2	1
4th.	Clay, Riley and Pottawatomie, ...	4	1
5th.	Dickinson, Davis and Waubensee, ...	3	1
6th.	Shawnee, Jackson and Jefferson, ...	8	2
7th.	Leavenworth, ...	9	3
8th.	Douglas, Johnson and Wyandotte, ...	13	4
9th.	Lykins, Linn and Bourbon, ...	9	3
10th.	Allen, Anderson and Franklin, ...	6	2
11th.	Woodson and Madison, ...	2	1
12th.	Coffey, Osage and Breckenridge, ...	6	2
13th.	Morris, Chase and Butler, ...	2	1
14th.	Arapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn and McGee, ... }	1	

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The Legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

§ 2. The Legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description (without deduction), of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

§ 3. The Legislature shall provide, each year, for raising revenue sufficient to defray the current expenses of the State.

§ 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

§ 5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each House, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes postponed or diminished, until the interest and principal of such debts shall have been wholly paid.

§ 6. No debts shall be contracted by the State except as herein provided, unless the proposed law for creating such debts shall first be submitted to a direct vote of the electors of the State at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the Legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article.

§ 7. The State may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

§ 8. The State shall never be a party in carrying on any works of internal improvement.

ARTICLE XII.

CORPORATIONS.

SECTION 1. The Legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

§ 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law; but such individual liabilities shall not apply to railroad corporations, nor corporations for religious or charitable purposes.

§ 3. The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations

§ 4. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

§ 5. Provision shall be made by general law for the organization of cities, towns and villages; and their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, shall be so restricted as to prevent the abuse of such power.

§ 6. The term "corporations," as used in this article, shall include all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

ARTICLE XIII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking law.

§ 2. All banking laws shall require, as collateral security for the redemption of the circulating notes of any bank organized under their provisions, a deposit with the Auditor of State of the interest-paying bonds of the several States or of the United States, at the cash rates of the New York Stock Exchange, to an amount equal to the amount of circulating notes, which such bank shall be authorized to issue, and a cash deposit in its vaults of ten per cent of such amount of circulating notes; and the Auditor shall register and countersign no more circulating bills of any bank than the cash value of such bonds when deposited.

§ 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the Auditor of State shall require additional security, or curtail the circulation of such bank to such extent as will continue the security unimpaired.

§ 4. All circulating notes shall be redeemable in the money of the United States. Holders of such notes shall be entitled, in case of the insolvency of such banks, to preference of payment over all other creditors.

§ 5. The State shall not be a stockholder in any banking institution.

§ 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the State, to be named on the circulating notes issued by such bank.

§ 7. No banking institution shall issue circulating notes of a less denomination than [one dollar].¹

§ 8. No banking law shall be in force until the same shall have been submitted to a vote of the electors of the State at some general election, and approved by a majority of all the votes cast at such election.

§ 9. Any banking law may be amended or repealed.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this Constitution may be made by either branch of the Legislature; and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal; and the Secretary of State shall cause the same to be published, in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for Representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments, at said election, shall adopt the amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

§ 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election of members to the Legislature, for or against a Convention; and if a majority of all the electors voting at such election shall have voted for a Convention, the Legislature shall, at the next session, provide for calling the same.

¹ Originally "five dollars." The amendment was proposed June 3, 1861, and accepted by the people the November election following.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose election or appointment is not otherwise provided for, shall be chosen or appointed as may be prescribed by law.

§ 2. The tenure of any office not herein provided for may be declared by law; when not so declared, such office shall be held during the pleasure of the authority making the appointment; but the Legislature shall not create any office the tenure of which shall be longer than four years.

§ 3. Lotteries, and the sale of lottery tickets, are forever prohibited.

§ 4.¹ [All public printing shall be done by a State Printer, who shall be elected by the Legislature, in joint session, and shall hold his office for two years, and until his successor shall be elected and qualified. The joint session of the Legislature, for the election of a State Printer, shall be on the third Tuesday of January, A. D. 1869, and every two years thereafter. All public printing shall be done at the capital, and the prices of the same shall be regulated by law.]

§ 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published as prescribed by law.

§ 6. The Legislature shall provide for the protection of the rights of women in acquiring and possessing property, real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

§ 7. The Legislature may reduce the salaries of officers who shall neglect the performance of any legal duty.

§ 8. The temporary seat of Government is hereby located at the city of Topeka, county of Shawnee. The first Legislature under this Constitution shall provide by law for submitting the question of the permanent location of the Capitol to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

§ 9.² A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced

¹ This section was introduced as an amendment, and ratified by the people at a general election in November, 1868, the vote being 13,471 to 5,413. The original section was as follows:

"§ 4. All public printing shall be let on contract, to the lowest responsible bidder, by such Executive officers, and in such manner as shall be prescribed by law."

² By section 25 of the schedule, it was directed that a vote should be taken separately upon the Homestead section of this article. The vote was 8,758 to 4,772, and decided for its adoption.

sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change from a territorial government to a permanent State government, it is declared by this Constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments and claims, both as respects individuals and bodies corporate, shall continue as if no change had taken place.

§ 2. All fines, penalties and forfeitures, owing to the Territory of Kansas, or any county, shall inure to the use of the State or county. All bonds executed to the Territory, or any officer thereof, in his official capacity, shall pass over to the Governor, or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

§ 3. The Governor, Secretary, and Judges, and all other officers, both civil and military, under the Territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this Constitution.

§ 4. All laws and parts of laws in force in the Territory at the time of the acceptance of this Constitution by Congress, not inconsistent with this Constitution, shall continue and remain in full force until they expire or shall be repealed.

§ 5. The Governor shall use his private seal until a State seal is provided.

§ 6. The Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney-General, and Superintendent of Public Instruction, shall keep their respective offices at the Seat of Government.

§ 7. All records, documents, books, papers, moneys, and vouchers belonging and pertaining to the several Territorial courts and offices, and to the several districts and county offices, at the date of the admission of this State into the Union, shall be disposed of in such manner as may be prescribed by law.

§ 8. All suits, pleas, complaints, and other proceedings pending in any Court of Record, or Justices' Court, may be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, injunctions, or other proceedings whatever, may progress and be carried on as if this Constitution had not been adopted, and the Legislature shall direct the mode in which such suits, pleas, complaints, prosecutions and other proceedings, and all papers, records, books, and documents connected therewith, may be removed to the courts established by this Constitution.

§ 9. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this Constitution, an election shall be held in the several voting precincts in this Territory on the first Tuesday in October, A. D. 1859.

§ 10. Each elector shall express his assent or dissent by voting a written or printed ballot labeled "For the Constitution," or "Against the Constitution."

§ 11. If a majority of all the votes cast at such election shall be in favor of the Constitution, then there shall be an election held in the several voting precincts on the first Tuesday in December, A. D. 1859, for the election of members of the first Legislature, of all State, district, and county officers provided for in this Constitution, and for a Representative in Congress.

§ 12. All persons having the qualifications of electors, according to the provisions of this Constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others, shall be entitled to vote at each of said elections.

§ 13. The persons who may be Judges of the several voting precincts of this Territory at the date of the respective elections in this schedule provided for, shall be the Judges of the respective elections herein provided for.

§ 14. The said Judges of Election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two Clerks of Election, who shall be sworn by one of said Judges faithfully to discharge their duties as such. In the event of a vacancy in the Board of Judges, the same shall be filled by the electors present.

§ 15. At each of the elections provided for in this schedule the polls shall be opened between the hours of nine and ten o'clock A. M., and closed at sunset.

§ 16. The tribunals transacting county business of the several counties shall cause to be furnished to the Boards of Judges in their respective counties two poll-books for each election hereinbefore pro-

vided for, upon which the Clerks shall inscribe the name of every person who may vote at the said elections.

§ 17. After closing the poll at each of the elections provided for in this Schedule, the Judges shall proceed to count the votes cast, and designate the persons or objects for which they are cast, and shall make two correct tally-lists of the same.

§ 18. Each of the Boards of Judges shall safely keep one poll-book and tally-list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll-book and tally-list to be transmitted, by the hands of a sworn officer, to the Clerk of the Board transacting county business in their respective counties, or to which the county may be attached for municipal purposes.

§ 19. The tribunals transacting county business shall assemble at the county seats of their counties on the second Tuesday after each of the elections provided for in this Schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold in safe-keeping the poll-books and tally-lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the President of this Convention, at the city of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

§ 20. The Governor of the Territory, and the President and Secretary of this Convention, shall constitute a Board of State Canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said city of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the Territory, and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

§ 21. Said Board of State Canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamations shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this Constitution provided, and shall publish said proclamation in one newspaper in each of the counties of the Territory in which a newspaper may be then published.

§ 22. The Board of State Canvassers shall provide for the transmission of authenticated copies of the Constitution to the President of

the United States, the President of the Senate, and Speaker of the House of Representatives.

§ 23. Upon official information having been by him received of the admission of Kansas into the Union as a State, it shall be the duty of the Governor elect under the Constitution to proclaim the same, and to convene the Legislature, and do all things else necessary to the complete and active organization of the State government.

§ 24. The first Legislature shall have no power to make any changes in county lines.

§ 25. At the election to be held for the ratification or rejection of this Constitution, each elector shall be permitted to vote on the homestead provision contained in the article on "Miscellaneous," by depositing a ballot inscribed "For the Homestead," or "Against the Homestead;" and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the Constitution.

RESOLUTIONS.

Resolved, That the Congress of the United States is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas river from its mouth to Fort Riley.

Resolved, That Congress be further requested to pass an act granting all swamp-lands within the State for the benefit of common schools.

Resolved, That Congress be further requested to pass an act appropriating five hundred thousand dollars, or, in lieu thereof, five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the Claim Commissioners appointed by the Governor and Legislature of Kansas under an act of the territorial Legislature, passed February 7, 1859.

Resolved, That the Legislature shall make provision for the sale or disposal of the lands granted to the State in the aid of internal improvements and for other purposes, subject to the same rights of pre-emption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the Union with this Constitution.

Resolved, That Congress be further requested to assume the debt of this Territory.

Done in Convention, at Wyandotte, this twenty-ninth day of July,
A. D. 1859.

JAMES M. WINCHELL,
*President of the Kansas Constitutional Convention,
and Delegate from Osage County.*

JOHN A. MARTIN, *Secretary.*

Robert Graham,	James M. Arthur,	P. H. Townsend,
John James Ingalls,	Josiah Lamb,	Wm. Hutchinson,
Caleb May,	Wm. McCulloch,	N. C. Blood,
J. A. Middleton,	James G. Blunt,	Edward G. Ross,
S. D. Houston,	J. C. Burnett,	James Hanway,
Luther R. Palmer,	Wm. R. Griffith,	Allen Crocker,
John Taylor Burris,	Samuel A. Kingman,	Samuel E. Hoffman,
John P. Greer,	Robert J. Porter,	James A. Signor,
John Ritchey,	James Blood,	George H. Lillie,
H. D. Preston,	S. O. Thatcher,	R. L. Williams,
Benjamin F. Simpson,	Edwin Stokes,	W. P. Dutton.

[The following named Delegates to the Wyandotte Convention did not sign the Constitution :

I. P. Slough,	F. Brown,	W. Perry,
J. B. McClelland,	Sam. Hipple,	R. C. Foster,
J. W. Forman,	S. A. Stinson,	J. F. Barton,
J. Stierwalt,	W. C. McDowell,	B. Wrigley.]
P. S. Parks,	A. D. McCune,	
E. M. Hubbard,	John Wright,	



KENTUCKY.

This State was formerly included within the territorial limits of Virginia, and remained a wilderness until within a few years of the American Revolution. Reports of its great natural fertility having been circulated by pioneer explorers, settlers from the older districts of Virginia and North Carolina began to find their way into the country, and, although exposed to Indian hostilities, these settlements continued to increase in strength and numbers.

Among those whose attention was attracted to this region, was Col. Richard Henderson, who, with certain associates, made an extensive purchase from the Indians on the south side of the Kentucky river in 1775, without first obtaining the consent of Virginia, and apparently without intending to seek for any further title than that acquired from the natives. The associates opened a land office, and proceeded to issue deeds. This proceeding was denounced by Governor Dunmore as illegal, and the same lands were offered for sale by him, under authority from the Crown.

To strengthen their claims, the associates and settlers holding under them called a Convention at Boonsboro', May 23, 1775, and organized themselves as the "Assembly of Transylvania." A compact was entered into between the proprietors and the settlers, courts were established, the militia organized, and laws passed. Their boundaries were very indefinite, and included parts of Western Virginia and North Carolina. At a meeting called in Oxford, Granville Co., N. C., in September, 1775, a Delegate was appointed to represent them in the Continental Congress. He was well received by some of the members; but, as the country was claimed to be within the bounds of Virginia, nothing was done toward admitting him to a seat. The purchase made by Henderson and his associates, was declared null and void by the Legislature of Virginia, although, to quiet his claims, they granted him two hundred thousand acres at the mouth of Green river. The State of Virginia, however held, that the Indian rights had been extinguished by the transaction, and that the title thus became vested in the State. The authority of Virginia was accepted; all parties thenceforth looked to her for their titles, and nothing more was heard of the young Republic of Transylvania.

In December, 1776, the Legislature of Virginia took the first step toward the civil organization of its western territory south of the Ohio, by erecting Kentucky county, embracing all the country west of Big Sandy creek, and extending to the Mississippi river.

In 1781, this county was subdivided into three counties, and early in 1783, this region was formed into a "District," co-extensive with the present State of Kentucky, and provided with a court of limited civil and criminal jurisdiction; its decisions being subject to appeal to the State courts, at the seat of State Government.

These counties were represented in the Virginia Legislature; but they were rather a remote and isolated colony, than an integral part of the Commonwealth. In the trial of capital offenses, her officers had to travel five hundred miles or more with prisoners, prosecutors and witnesses; communication with the seat of government on appeals, and in other cases, was attended with great delay and expense, and sometimes months would elapse, before the local authorities could communicate with the Executive upon civil or military affairs. During the

revolutionary war, the settlements had constantly increased, notwithstanding Indian hostilities, in repelling which, the settlers were forced to rely upon themselves; and this habit of self-reliance, naturally led them to look forward in the hope of securing an independent civil organization, at no distant period.

In the autumn of 1784, the settlements were alarmed by rumors of an invasion by hostile Cherokees, and it being found that the local authorities had no power to legally organize a military force adequate to the occasion, it was deemed advisable to call a meeting of Representatives from the various settlements, to meet at Danville on the 27th of December, 1784, for a full consideration of their circumstances, and of the remedies proper for their relief. Twenty-five Delegates, elected by Militia Districts, attended, and after a session of ten days—during which the business was “conducted with great decorum”—they adjourned *sine die*. While some believed that the State of Virginia might remove some of the causes of complaint, others insisted that nothing short of separation would secure the needed relief. The Convention recommended that the people, at their next April elections, should choose Representatives, to meet at Danville, for the purpose of considering the subject of separation, and asking permission to become an independent State. There being no printing-press in the District, written circulars were prepared to inform the people as to the purposes of the Convention.

On the 23d of May the second Convention met, and on the ninth day of their session resolutions were adopted for an application to the Assembly of Virginia, praying that the District might be established as a separate State, and for an election of Delegates to be held in Danville, on the second Monday of August, to serve in Convention, and to continue, by adjournment, until the first day of April next, to take further under their consideration the state of the District. This election was to be held on the principles of equal representation by numbers—a feature then unknown in the Constitution of Virginia, in which it was based upon counties. In the absence of census returns, the numbers could only be ascertained from tithe lists and muster-rolls. The petition to Virginia was temperate and respectful in its language, and asked that, in accordance with the intention expressed in the Constitution of that State,¹ a separation might occur, so that a Constitution might be formed; that any proportion of public debt that might exist should be apportioned between them by Commissioners appointed upon each side, and that should any differences arise, they should be settled by Congress, as provided by the Articles of Confederation. It was proposed that the several acts of Assembly that might be in force at the time of separation—together with the common law of England, and all statutes or acts of Parliament made in aid of the common law prior to the fourth year of James I which were of a general nature, not local in their application nor repealed by the Legislature of Virginia—should be continued until repealed by law.

The Convention met on the 8th of August, 1785, and agreed upon resolutions more energetic in style, and a memorial more pointed in its terms, than the former.* They claimed separation as a matter of right, and appointed a committee to present and urge the passage of a bill in the Virginia Legislature.

An act was accordingly passed by the Virginia Legislature, at the October session, 1785, permitting the formation of a separate State, but coupled with conditions which led to much delay, and tended to produce irritation and dis-

¹ Alluding to the following provision in the first Constitution of Virginia:

“The western and northern extent of Virginia shall, in all other respects, stand—as fixed by the charter of King James I, in the year 1609, and by the public treaty of peace between the courts of Great Britain and France, in the year 1763—unless by act of this Legislature one or more governments be established westward of the Alleghany mountains.”

content. The question as to separation was to be decided by the people, in a Convention to be held at Danville on the fourth Monday of September, 1786. A portion of the delegates met, but Indian hostilities prevented a quorum from assembling. They, however, kept themselves in existence as a Convention, by adjournments, until January, 1787, when they organized, and declared that it was expedient to form a State, upon the terms of the act.

At this crisis another act of Virginia, passed at the October session of 1786, was received, in which, after reciting that the Representatives had been hindered by unforeseen events from meeting at the time proposed, and that, in consequence, no decision could now take place within the time necessary for its receiving the assent of Congress prior to the first day of June next, as required by the act under which they had been elected, it proceeded to appoint another Convention, to take a new expression of the popular will. The new Convention was to meet on the third Monday in September, and the members might continue in appointment for one year. It was provided, that if two-thirds of the members did not assemble within the first fifteen days, then any number, in which a majority of the whole concurred in the vote, was competent to decide upon the questions before them.

The inability of Congress under the Confederation, with its feeble powers, and in the exhausted condition of the country, to afford adequate protection to the inhabitants against Indian hostilities, was construed by some into intended neglect. This feeling was increased by circulars purporting to come from "a Committee of Correspondence in the Western Part of Pennsylvania," stating that the right of navigation of the Mississippi was about to be bartered for a term of twenty-five or thirty years to Spain, in exchange for some commercial advantages from which the western country would derive no benefit. A circular addressed to every county, dated March 29, 1787, was issued, calling a Convention in May, to protest against this measure. The rumor naturally excited alarm, and the Convention met at Danville at the appointed time. Upon learning that the Legislature of Virginia had already taken measures to assert, in the strongest terms, the rights of her western citizens to the free navigation of the Mississippi, they considered their business as anticipated, and adjourned without day.

These rumors were doubtless started to favor a scheme, then in progress, to create a dissatisfaction toward Congress and the Atlantic States, and to encourage an independent State, with the view of friendly adjustment of privileges of navigation with the Spaniards of Louisiana, who, it is believed, offered the aid of money, arms and troops, to assist in the separation, with the design of ultimate annexation to their province. The party in this intrigue was active; some of its members were quite artful and influential, and their efforts were continued down to near the period of the final admission of Kentucky into the Union. An emissary from Canada also appeared in the District, offering favorable terms of union, but the people generally, notwithstanding their frequent disappointments, still remained loyal to the existing government, and confident in the final success of their efforts for the establishment of a State.

The Convention, appointed to decide upon a separation, met at Danville on the 17th of September, 1787, almost without an absent member. It was decided unanimously, and with but little debate, that separation was expedient upon the terms prescribed by law. A respectful and loyal address was prepared for Congress, and the last day of December, 1788, was fixed upon for the end of the authority of Virginia and the beginning of a new State. Neither the State of Virginia nor the people were addressed, but the journal was published, and a copy was sent to the Governor of Virginia for his information. It was also

resolved that another Convention should be elected, to declare what laws were to be in force until others were adopted under the legislative authority of the new State, and for preparing a Constitution.

The petition of the Convention was considered in Congress, and on the 3d of June, 1788, that body declared it expedient that the request should be granted; but, as the Constitution of the United States was then in course of adoption, with every prospect of success, and as the addition of a new State would only delay the consummation of this desirable measure, Congress declined to take further action until the organization of a new government.

The Convention for drafting a Constitution met at Danville, on the 28th of July, 1788, and, while in session, received intelligence that Congress had declined taking any action for the present, preferring to leave the question to the new government. This news, as disagreeable as it was unexpected, raised new difficulties, and encouraged those concerned in the Spanish intrigues to new artifices. It appearing that the State could not be admitted into the Union for the present, they saw fit to regard their powers as dissolved; yet, being anxious for the safety and welfare of their constituents, they earnestly recommended to the people that an election should be held in October, for a Convention to meet at Danville on the first Monday of November, 1788, to continue in office until the first day of January, 1790, and that they delegate to their Representatives full powers to take such measures for obtaining the admission of the District into the Union, and the free navigation of the Mississippi, as might appear most conducive to those ends; and also to form a Constitution and organize a State government, as they might judge necessary; *or to do and accomplish whatsoever, on a consideration of the state of the District, might in their opinion promote its interests.*

The clause granting this ambiguous power, was doubtless introduced by the management of those in the Spanish interest. The Convention met November 3, 1788, and party intrigue was exerted to the utmost to forward this object. The majority, however, decided upon another memorial to Virginia, and the Convention adjourned without day.

Another act concerning the erection of Kentucky into a State, was passed by Virginia December 29, 1788, it being judged that such a partition of the Commonwealth was rendered expedient, by the remote situation of the more fertile and populous part of the said District, and by the interjacent natural impediments to a convenient and regular communication therewith. The question was, however, to be decided by a Convention to be elected in May, and to meet at Danville on the 20th of July, 1789. Certain conditions were laid down for their acceptance, and the Convention was to remain in power one year. Among the terms proposed, which proved very unsatisfactory, was one requiring that the new State should pay a portion of the public and domestic debt of Virginia then existing, and another providing that, in the granting of county lands to Virginia officers and soldiers, that State should retain the power of deciding upon the time for completing these titles. In short, this act, while it was strongly opposed by some, was entirely satisfactory to none.

The Convention met July 20, 1789, as appointed, and agreed upon resolutions declaring that the terms offered by Virginia had been materially altered to their disadvantage, and that they were injurious and inadmissible. They prepared a memorial asking for such alterations as might make them equal to those formerly offered and agreed upon.

This led to another act, passed on the 18th of December, 1789, in which the objections were removed, and another Convention was ordered to be elected in May, and to meet at Danville on the 26th of July, 1790, to consider and decide

upon the question of separation upon certain conditions, which were more favorable than the former; but which still depended upon an event beyond the control of either. This was, that prior to the date fixed for the termination of the authority of Virginia, Congress should release that State from all its Federal obligations arising from the said District, as being a part thereof, and that it should agree that the proposed State should immediately, after such date, be admitted into the Federal Union.

To the end that no period of anarchy might happen, it was provided that the Convention should have authority to take the necessary measures for the election and meeting of another Convention, at some day prior to the day fixed for the ending of the authority of Virginia, and of its laws over said District, with full power to frame and establish a fundamental Constitution of government for the proposed State, and to declare what laws should be in force therein, until the same should be abrogated or altered by the Legislative authority acting under the Constitution so to be framed and established.

The Convention appointed for July, 1790, met; declared separation expedient; accepted the proposed terms, and appointed the first day of June, 1792, as the date when the new State was to begin operation. It also prepared an address to the General Assembly of Virginia, and a memorial to the President and Congress, and appointed an election of Delegates to the Convention for preparing a Constitution.

By an act approved February 4, 1791, Congress declared its consent to the admission of the State—the act to take effect on the day already fixed by the Convention; although the Constitution of the proposed State was still unwritten and its general terms undecided.

The Convention for executing this task was elected in December, 1791, and met at Danville on the 2d of April, 1792; and, on the 19th of that month, ratified, by their adoption and signatures, the first State Constitution, which was soon after published, and went into operation without further ratification by the people. Thus, after four Enabling Acts by the State of Virginia, and ten Conventions elected by the people, the State of Kentucky was allowed to take her place in the Union upon equal terms with the original States.

The boundary between Kentucky and Virginia was agreed upon by Commissioners in May, 1799, and was confirmed by the former State December 2, 1799, and by the latter January 13, 1800. The boundary with Tennessee was settled by Commissioners of the two States, assembled at Frankfort, February 2, 1820, and approved by a joint resolution of Congress May 12th of that year.

The first Constitution is said to have been drafted by Col. George Nicholas, the first Attorney-General of the State, a Delegate from Mercer county, and a leading man in the District. In many of its provisions, the instrument differed from that of the parent State, while in others it resembled that of the United States.

Representation was based upon a quadrennial census of the free male inhabitants above the age of 21 years. The General Assembly consisted of a Senate and House of Representatives. The former was to consist at first of eleven members, but afterward of one Senator from each county, elected once in four years by Electors chosen for the purpose, and equal in number to the Representatives. They were not divided into classes. The House consisted of not less than 40 nor more than 100 Representatives, elected annually by the people. The Governor was to be chosen once in four years by the Electors for Senators. He had the veto power, subject to reversal by two-thirds of both Houses, and, with the concurrence of the Senate, appointed all officers not otherwise specially provided for by the Constitution. His pardoning power was limited only in cases

of treason and impeachments. In case of a vacancy, the office of Governor was to be filled by the President of the Senate. The Attorney-General was to hold his office during good behavior, and the Secretary during the Governor's term. Elections were to be by ballot. The privilege of election was enjoyed by all free male citizens of the age of twenty-one years, who had resided two years in the State, and one year in the county in which they offered to vote, next before election.

The judicial power of the Commonwealth, both as to matters of law and equity, was vested in one Supreme Court, styled the Court of Appeals, and in such inferior courts as the Legislature might from time to time ordain and establish. The Judges held office during good behavior, and might be impeached, or, for causes not sufficient for impeachment, might be removed by the Governor, on the address of two-thirds of each branch of the Legislature. The Supreme Court had original and final jurisdiction in all cases respecting the titles of land under the existing land laws of Virginia, including those then depending in the Supreme Court of the District of Kentucky, and in all cases concerning contracts for land prior to the establishing of these titles, with power to hear and determine in a summary way, and to direct the mode of bringing the same to a hearing, so as to enable them to do right and justice to the parties, with as little delay and at as small an expense as the nature of the business would allow. The court was in all cases to oblige the parties to state the material parts of their complaint and defense in writing; and was directed, on the conclusion of every cause, to state on the records, the whole merits of the case, the questions arising therefrom, the opinions of the court thereupon, and a summary of the reasons in support of these opinions. Judges dissenting from the majority, were also to state their reasons in writing, and on disputed questions of fact, a jury might be impaneled. The Legislature might regulate or take away the original jurisdiction thus conferred, and this was done in 1795. In all other cases the Supreme Court had appellate jurisdiction only, with such exceptions as the Legislature might make, and this authority might also vest in the Supreme and inferior courts, such powers, both in law and equity, as they might judge proper and necessary.

Sheriffs and Coroners were elected by the people for terms of three years, but not two successive terms. Field and staff officers of militia were appointed by the Governor, except battalion staff officers, who were appointed by their field officers. Company officers were elected by their companies, and the whole were commissioned during good behavior, and while resident in the bounds of the battalion or company to which appointed. The State Treasurer was appointed annually by joint ballot of both Houses.

The Legislature could pass no law for emancipating slaves without the consent of their owners, unless full payment of value was previously made; nor could they prevent emigrants from bringing slaves into the State, but might prohibit their importation as merchandise. To fix the seat of government, twenty-one persons were to be chosen by ballot, from which list the Representatives from Mercer and Fayette counties were alternately to strike one, until their number was reduced to five, who, or any three of whom, had power to fix a permanent seat, to receive grants of land, and to lay out a town. The laws of Virginia not locally inapplicable were continued until changed.

In 1797, the voters were to decide at an election, whether another Convention should be held, and if the vote favored that measure (the total number voting for and against being a majority of the whole number voting for Representatives), the Legislature was directed the next year, to again submit the question. If with like result, a choice of Delegates was to be made, and a Convention held. Upon the first occasion, the vote stood 5,446 to 440, and upon the second, 8,804 to

2,017. The whole number of votes cast for Representatives upon the first election was 9,814, and upon the latter, 11,853. An election was accordingly ordered by an act passed December 18, 1798, and the Convention thus elected, met at Frankfort, on the 22d of July, 1799, and closed its labors on the 17th of August of that year, by agreeing upon a Constitution, which took effect on the 1st of June, 1800. It modified the former, by giving the election of Governor and Senators directly to the people, — introduced Senatorial Districts, and required one-fourth of the Senators to be elected every year. It also created the office of Lieutenant-Governor. Some attempt was made to secure the gradual abolition of slavery, but without effect.

Representation was to be equalized in 1803, and once in four years after, upon a census of free males over twenty-one years of age, and Negroes, Mulattoes and Indians were now excluded from voting. The Representatives were not to be less than fifty-eight nor more than one hundred in number.

The Senate consisted of twenty-four members, at first, and for every three members added to the House of Representatives, one member was to be added to the Senate. Sheriffs were appointed by the Governor, from nominations of the County Court, for two years. The Court of Appeals had appellate jurisdiction only, and the jurisdiction of the Courts was generally left to be fixed by law.

The second Constitution remained the organic law of Kentucky nearly half a century, without amendment.

The only mode of change provided, was by a Convention, approved by the popular vote upon two successive years, at which elections a majority of all the voters of the State must vote upon the question of a Convention. A general desire for change, more especially with regard to the Judiciary system, led to a call for a Convention, and elections were held in 1847 and 1848, with the following result:

1847. Total number of voters in State, ...	136,945
Vote for a Convention,.....	92,639
1848. Total number of voters in State, ...	139,922
Vote for a Convention,.....	101,828

An act calling a Convention was passed on the 13th of January, 1849. It met on the 1st of October, 1849, and adjourned on the 11th of June, 1850, after agreeing upon the present Constitution, which was approved by a vote of 71,563 to 20,302.

In 1865, a bill was introduced, declaring, in the preamble, that: "Whereas it is represented to the present General Assembly, that many of the good citizens of this Commonwealth do verily believe that experience has pointed out the necessity of calling a Convention, with the view of revising and amending the Constitution of this State," it accordingly proposed that the question of a Convention should be submitted at the next general election. This bill was lost in the Senate on the 15th of December, 1865, by the casting vote of the Lieutenant-Governor.

CONSTITUTION OF KENTUCKY, 1850.

SUMMARY.

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- I. Concerning the Distribution of the powers of Government.
- II. Concerning the Legislative Department.
- III. Concerning the Executive Department.
- IV. Concerning the Judicial Department.
Concerning the Court of Appeals.
Concerning the Circuit Courts.
Concerning the County Courts.
- V. Concerning Impeachments.
- VI. Concerning Executive and Ministerial officers for counties and districts.
- VII. Concerning the Militia.
- VIII. General Provisions
- IX. Concerning the seat of Government.
- X. Concerning Slaves.
- XI. Concerning Education.
- XII. Mode of revising the Constitution.
- XIII. Bill of Rights.
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PREAMBLE.

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2. Persons belonging to one not to exercise the powers of another.

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32. Legislature not to grant divorces — nor change names of persons — nor direct sale of certain estates — general laws to be passed for these.
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35. Objects for which debts are allowed — limit — case of invasion or insurrection.
36. Other debts forbidden — provision for payment.
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PREAMBLE.

We, the Representatives of the people of the State of Kentucky, in Convention assembled, to secure to all the citizens thereof the enjoyment of the rights of life, liberty and property, and of pursuing happiness, do ordain and establish this Constitution for its government:

ARTICLE I.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Kentucky shall be divided into three Distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are

Legislative to one, those which are Executive to another, and those which are Judiciary to another.

§ 2. No person, or collection of persons, being of one of those Departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power shall be vested in a House of Representatives and Senate, which together shall be styled the General Assembly of the Commonwealth of Kentucky.

§ 2. The members of the House of Representatives, shall continue in service for the term of two years from the day of the general election, and no longer.

§ 3. Representatives shall be chosen on the first Monday in August, in every second year, and the mode of holding the elections shall be regulated by law.

§ 4. No person shall be a Representative, who, at the time of his election, is not a citizen of the United States, has not attained the age of twenty-four years, and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town, or city, for which he may be chosen.

§ 5. The General Assembly shall divide each county of this Commonwealth into convenient election precincts, or may delegate power to do so to such county authorities as may be designated by law; and elections for Representatives for the several counties shall be held at the places of holding their respective courts, and in the several election precincts into which the counties may be divided: *Provided*, That when it shall appear to the General Assembly, that any city or town hath a number of qualified voters equal to the ratio then fixed, such city or town shall be invested with the privilege of a separate representation, in either or both Houses of the General Assembly, which shall be retained so long as such city or town shall contain a number of qualified voters equal to the ratio which may, from time to time, be fixed by law; and, thereafter, elections for the county in which such city or town is situated shall not be held therein, but such city or town shall not be entitled to a separate representation, unless such county, after the separation, shall also be entitled to one or more Representatives. That whenever a city or town shall be entitled to a separate representation in either House of the General Assembly, and by its numbers shall be entitled to more than one Representative, such city or town shall be divided, by squares which

are contiguous, so as to make the most compact form, into Representative Districts, as nearly equal as may be, equal to the number of Representatives to which such city or town may be entitled; and one Representative shall be elected from each District. In like manner shall said city or town be divided into Senatorial Districts, when, by the apportionment, more than one Senator shall be allotted to such city or town; and a Senator shall be elected from each Senatorial District; but no ward or municipal division shall be divided by such division of Senatorial or Representative Districts unless it be necessary to equalize the elective, Senatorial or Representative Districts.

§ 6. Representation shall be equal and uniform in this Commonwealth, and shall be forever regulated and ascertained by the number of qualified voters therein. In the year 1850, again in the year 1857, and every eighth year thereafter, an enumeration of all the qualified voters of the State shall be made; and, to secure uniformity and equality of representation, the State is hereby laid off into ten districts. The first district shall be composed of the counties of Fulton, Hickman, Ballard, McCracken, Graves, Calloway, Marshall, Livingston, Crittenden, Union, Hopkins, Caldwell, and Trigg. The second district shall be composed of the counties of Christian, Muhlenburg, Henderson, Daviess, Hancock, Ohio, Breckenridge, Meade, Grayson, Butler, and Edmonson. The third district shall be composed of the counties of Todd, Logan, Simpson, Warren, Allen, Monroe, Barren, and Hart. The fourth district shall be composed of the counties of Cumberland, Adair, Green, Taylor, Clinton, Russell, Wayne, Pulaski, Casey, Boyle, and Lincoln. The fifth district shall be composed of the counties of Hardin, Larue, Bullitt, Spencer, Nelson, Washington, Marion, Mercer, and Anderson. The sixth district shall be composed of the counties of Garrard, Madison, Estill, Owsley, Rockcastle, Laurel, Clay, Whitley, Knox, Harlan, Perry, Letcher, Pike, Floyd, and Johnson. The seventh district shall be composed of the counties of Jefferson, Oldham, Trimble, Carroll, Henry, and Shelby, and the city of Louisville. The eighth district shall be composed of the counties of Bourbon, Fayette, Scott, Owen, Franklin, Woodford, and Jessamine. The ninth district shall be composed of the counties of Clarke, Bath, Montgomery, Fleming, Lewis, Greenup, Carter, Lawrence, Morgan, and Breathitt. The tenth district shall be composed of the counties of Mason, Bracken, Nicholas, Harrison, Pendleton, Campbell, Grant, Kenton, Boone, and Gallatin. The number of Representatives shall, at the several sessions of the General Assembly, next after the making of the enumerations, be apportioned among the ten several districts, according to the number of qualified voters in

each; and the Representatives shall be apportioned, as near as may be, among the counties, towns, and cities in each district; and in making such apportionment the following rules shall govern, to wit: Every county, town, or city having the ratio, shall have one Representative; if double the ratio, two Representatives, and so on. Next, the counties, towns, or cities having one or more Representatives, and the largest number of qualified voters above the ratio, and counties having the largest number under the ratio shall have a Representative, regard being always had to the greatest number of qualified voters: *Provided*, That when a county may not have a sufficient number of qualified voters to entitle it to one Representative, then such county may be joined to some adjacent county or counties, which counties shall send one Representative. When a new county shall be formed of territory belonging to more than one district, it shall form a part of that district having the least number of qualified voters.

§ 7. The House of Representatives shall choose its Speaker and other officers.

§ 8. Every free white male citizen, of the age of twenty-one years, who has resided in the State two years, or in the county, town, or city, in which he offers to vote, one year next preceding the election, shall be a voter; but such voter shall have been, for sixty days next preceding the election, a resident of the precinct in which he offers to vote, and he shall vote in such precinct, and not elsewhere.

§ 9. Voters, in all cases except treason, felony, breach, or surety of the peace, shall be privileged from arrest during their attendance at, going to, and returning from elections.

§ 10. Senators shall be chosen for the term of four years, and the Senate shall have power to choose its officers biennially.

§ 11. Senators and Representatives shall be elected, under the first apportionment after the adoption of this Constitution, in the year 1851.

§ 12. At the session of the General Assembly next after the first apportionment under this Constitution, the Senators shall be divided by lot, as equal as may be, into two classes; the seats of the first class shall be vacated at the end of two years from the day of the election, and those of the second class at the end of four years, so that one-half shall be chosen every two years.

§ 13. The number of Representatives shall be one hundred, and the number of Senators thirty-eight.

§ 14. At every apportionment of representation, the State shall be laid off into thirty-eight Senatorial Districts, which shall be so formed as to contain, as near as may be, an equal number of qualified voters, and so that no county shall be divided in the formation of a Senatorial

District, except such county shall be entitled, under the enumeration, to two or more Senators; and where two or more counties compose a district, they shall be adjoining.

§ 15. One Senator for each district shall be elected by the qualified voters therein, who shall vote in the precincts where they reside, at the places where elections are by law directed to be held.

§ 16. No person shall be a Senator who, at the time of his election, is not a citizen of the United States; has not attained the age of thirty years, and who has not resided in this State six years next preceding his election, and the last year thereof in the district from which he may be chosen.

§ 17. The election for Senators, next after the first apportionment under this Constitution, shall be general throughout the State, and at the same time that the election for Representatives is held, and thereafter, there shall be a biennial election for Senators to fill the places of those whose term of service may have expired.

§ 18. The General Assembly shall convene on the first Monday in November, after the adoption of this Constitution, and again on the first Monday in November, 1851, and on the same day of every second year thereafter, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

§ 19. Not less than a majority of the members of each House of the General Assembly shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner, and under such penalties, as may be prescribed thereby.

§ 20. Each House of the General Assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

§ 21. Each House of the General Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

§ 22. Each House of the General Assembly shall keep and publish, weekly, a journal of its proceedings, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

§ 23. Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 24. The members of the General Assembly shall severally receive from the public treasury a compensation for their services, which shall be three dollars a day during their attendance on, and twelve and a

half cents per mile for the necessary travel in going to and returning from the sessions of their respective Houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made; nor shall a session of the General Assembly continue beyond sixty days, except by a vote of two-thirds of all the members elected to each House, but this shall not apply to the first session held under this Constitution.

§ 25. The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

§ 26. No Senator or Representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this Commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the said term, except to such offices or appointments as may be filled by the election of the people.

§ 27. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, nor while he holds or exercises any office of profit under this Commonwealth or under the Government of the United States, shall be eligible to the General Assembly, except attorneys-at-law, Justices of the Peace, and militia officers: *Provided*, That Attorneys for the Commonwealth, who receive a fixed annual salary, shall be ineligible.

§ 28. No person who, at any time, may have been a collector of taxes or public moneys for the State, or the assistant or deputy of such collector, shall be eligible to the General Assembly unless he shall have obtained a quietus, six months before the election, for the amount of such collection, and for all public moneys for which he may have been responsible.

§ 29. No bill shall have the force of a law, until, on three several days, it be read over in each House of the General Assembly, and free discussion allowed thereon, unless, in cases of urgency, four-fifths of the House, where the bill shall be depending, may deem it expedient to dispense with this rule.

§ 30. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments, as in other bills: *Provided*, That they shall not introduce any new matter, under color of amendment, which does not relate to raising revenue.

§ 31. The General Assembly shall regulate by law by whom and in what manner, writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

§ 32. The General Assembly shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants, or other persons laboring under legal disabilities, by special legislation; but by general laws shall confer such powers on the courts of justice.

§ 33. The credit of this Commonwealth shall never be given or loaned in aid of any person, association, municipality, or corporation.

§ 34. The General Assembly shall have no power to pass laws to diminish the resources of the sinking fund, as now established by law, until the debt of the State be paid, but may pass laws to increase them; and the whole resources of said fund, from year to year, shall be sacredly set apart and applied to the payment of the interest and principal of the State debt, and to no other use or purpose, until the whole debt of the State is fully paid and satisfied.

§ 35. The General Assembly may contract debts to meet casual deficits or failures in the revenue, but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts shall be applied to the purposes for which they were obtained, or to repay such debts: *Provided*, That the State may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defense.

§ 36. No act of the General Assembly shall authorize any debt to be contracted on behalf of the Commonwealth, except for the purposes mentioned in the thirty-fifth section of this article, unless provision be made therein to lay and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for or against it: *Provided*, That the General Assembly may contract debts, by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

§ 37. No law, enacted by the General Assembly, shall relate to more than one subject, and that shall be expressed in the title.

§ 38. The General Assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

§ 39. The General Assembly may pass laws authorizing writs of error in criminal or penal cases, and regulating the right of challenge of jurors therein.

§ 40. The General Assembly shall have no power to pass any act or resolution, for the appropriation of any money, or the creation of any debt, exceeding the sum of one hundred dollars, at any one time, unless the same, on its final passage, shall be voted for by a majority of all the members then elected to each branch of the General Assembly; and the yeas and nays thereon entered on the journal.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The Supreme Executive power of the Commonwealth shall be vested in a Chief Magistrate, who shall be styled the Governor of the Commonwealth of Kentucky.

§ 2. The Governor shall be elected for the term of four years, by the qualified voters of the State, at the time when, and places where, they shall respectively vote for Representatives. The person having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot, in such manner as the General Assembly may direct.

§ 3. The Governor shall be ineligible for the succeeding four years after the expiration of the term for which he shall have been elected.

§ 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years next preceding his election.

§ 5. He shall commence the execution of the duties of his office on the fifth Tuesday succeeding the day of the general election on which he shall have been chosen, and shall continue in the execution thereof until his successor shall have taken the oath or affirmation prescribed by this Constitution.

§ 6. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of Governor.

§ 7. The Governor shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished during the term for which he was elected.

§ 8. He shall be Commander-in-Chief of the army and navy of this Commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the General Assembly.

§ 9. He shall have power to fill vacancies that may occur, by granting commissions, which shall expire when such vacancies shall have been filled according to the provisions of this Constitution.

§ 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment. In cases of treason, he shall have power to grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the Clerk, Sheriff, or Commonwealth's Attorney in penal or criminal cases.

§ 11. He may require information, in writing, from the officers in the Executive Department, upon any subject relating to the duties of their respective offices.

§ 12. He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he may deem expedient.

§ 13. He may, on extraordinary occasions, convene the General Assembly at the seat of Government, or at a different place if that should have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; and in case of disagreement between the two Houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not exceeding four months.

§ 14. He shall take care that the laws be faithfully executed.

§ 15. A Lieutenant-Governor shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. In voting for Governor and Lieutenant-Governor, the electors shall state for whom they vote as Governor; and for whom as Lieutenant-Governor.

§ 16. He shall, by virtue of his office, be Speaker of the Senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, when the Senate are equally divided, to give the casting vote.

§ 17. Should the Governor be impeached, removed from office, die, refuse to qualify, resign, or be absent from the State, the Lieutenant-Governor shall exercise all the power and authority pertaining to the office of Governor, until another be duly elected and qualified, or the Governor, absent or impeached, shall return or be acquitted.

§ 18. Whenever the government shall be administered by the Lieutenant-Governor, or he shall fail to attend as Speaker of the Senate, the Senators shall elect one of their own members as Speaker for that occasion. And if, during the vacancy of the office of Governor, the Lieu-

tenant-Governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the Speaker of the Senate shall, in like manner, administer the government: *Provided*, That, whenever a vacancy shall occur in the office of Governor, before the first two years of the term shall have expired, a new election for Governor shall take place, to fill such vacancy.

§ 19. The Lieutenant-Governor, or Speaker *pro tempore* of the Senate, while he acts as Speaker of the Senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the Speaker of the House of Representatives, and no more; and during the time he administers the government, as Governor shall receive the same compensation which the Governor would have received, had he been employed in the duties of his office.

§ 20. If the Lieutenant-Governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the General Assembly, it shall be the duty of the Secretary of State, for the time being, to convene the Senate for the purpose of choosing a Speaker.

§ 21. The Governor shall nominate, and by and with the advice and consent of the Senate, appoint a Secretary of State, who shall be commissioned during the term for which the Governor was elected, if he shall so long behave himself well. He shall keep a fair register, and attest all the official acts of the Governor, and shall, when required, lay the same, and all papers, minutes, and vouchers, relative thereto, before either House of the General Assembly; and shall perform such other duties as may be required of him by law.

§ 22. Every bill, which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be considered, and if approved by a majority of all the members elected to that House, it shall be a law; but, in such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each House respectively. If any bill shall not be returned by the Governor, within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

§ 23. Every order, resolution or vote, in which the concurrence of both Houses may be necessary, except on a question of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him; or, being disapproved, shall be repassed by a majority of all the members elected to both Houses, according to the rules and limitations prescribed in case of a bill.

§ 24. Contested elections for Governor and Lieutenant-Governor shall be determined by both Houses of the General Assembly, according to such regulations as may be established by law.

§ 25. A Treasurer shall be elected by the qualified voters of the State, for the term of two years; and an Auditor of Public Accounts, Register of the Land Office, and Attorney-General, for the term of four years. The duties and responsibilities of these officers shall be prescribed by law: *Provided*, That inferior State officers, not specially provided for in this Constitution, may be appointed, or elected, in such manner as shall be prescribed by law, for a term not exceeding four years.

§ 26. The first election, under this Constitution, for Governor, Lieutenant-Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, and Attorney-General, shall be held on the first Monday in August, in the year 1851.

ARTICLE IV.

CONCERNING THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this Commonwealth, both as to matters of law and equity, shall be vested in one Supreme Court (to be styled the Court of Appeals), the courts established by this Constitution, and such courts, inferior to the Supreme Court, as the General Assembly may, from time to time, erect and establish.

CONCERNING THE COURT OF APPEALS.

§ 2. The Court of Appeals shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may, from time to time, be prescribed by law.

§ 3. The Judges of the Court of Appeals shall, after their first term, hold their offices for eight years, from and after their election, and until their successors shall be duly qualified, subject to the conditions hereinafter prescribed; but for any reasonable cause, the Governor shall remove any of them on the address of two-thirds of each House of the General Assembly: *Provided, however*, That the cause or

causes for which such removal may be required, shall be stated at length in such address, and on the journal of each House. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during the time for which they shall have been elected.

§ 4. The Court of Appeals shall consist of four Judges, any three of whom may constitute a court for the transaction of business. The General Assembly, at its first session after the adoption of this Constitution, shall divide the State, by counties, into four Districts, as nearly equal in voting population, and with as convenient limits, as may be, in each of which the qualified voters shall elect one Judge of the Court of Appeals: *Provided*, That whenever a vacancy shall occur in said court, from any cause, the General Assembly shall have the power to reduce the number of Judges and Districts; but in no event shall there be less than three Judges and Districts. Should a change in the number of the Judges of the Court of Appeals be made, the term of office and number of Districts shall be so changed as to preserve the principle of electing one Judge every two years.

§ 5. The Judges shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all process shall be: "The Commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the Commonwealth of Kentucky, and conclude "against the peace and dignity of the same."

§ 6. The Judges first elected shall serve as follows, to wit: one shall serve until the first Monday in August, 1852; one until the first Monday in August, 1854; one until the first Monday in August, 1856; and one until the first Monday in August, 1858. The Judges, at the first term of the court succeeding their election, shall determine, by lot, the length of time which each one shall serve; and, at the expiration of the service of each, an election in the proper District shall take place to fill the vacancy. The Judge having the shortest time to serve shall be styled the Chief Justice of Kentucky.

§ 7. If a vacancy shall occur in said court from any cause, the Governor shall issue a writ of election to the proper District to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than one year, the Governor shall appoint a Judge to fill such vacancy.

§ 8. No person shall be eligible to the office of Judge of the Court of Appeals, who is not a citizen of the United States, a resident of the District for which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practicing lawyer eight years, or whose service upon the bench of any

Court of Record, when added to the time he may have practiced law shall not be equal to eight years.

§ 9. The Court of Appeals shall hold its sessions at the seat of government, unless otherwise directed by law; but the General Assembly may, from time to time, direct that said court shall hold sessions in any one or more of said districts.

§ 10. The first election of the Judges and Clerks of the Court of Appeals shall take place on the second Monday in May, 1851, and thereafter, in each District as a vacancy may occur, by the expiration of the term of office; and the Judges of the said court shall be commissioned by the Governor.

§ 11. There shall be elected, by the qualified voters of this State, a Clerk of the Court of Appeals, who shall hold his office, from the first election, until the first Monday in August, 1858, and thereafter for the term of eight years from and after his election; and should the General Assembly provide for holding the Court of Appeals in any one or more of said Districts, they shall also provide for the election of a Clerk by the qualified voters of such District, who shall hold his office for eight years, possess the same qualifications, and be subject to removal in the same manner as the Clerk of the Court of Appeals; but if the General Assembly shall, at its first or any other session, direct the Court of Appeals to hold its sessions in more than one District, a Clerk shall be elected by the qualified voters of such District. And the Clerk, first provided for in this section, shall be elected by the qualified voters of the other District or Districts. The same principle shall be observed whenever the court shall be directed to hold its sessions in either of the other Districts. Should the number of Judges be reduced, the term of the office of Clerk shall be six years.

§ 12. No person shall be eligible to the office of Clerk of the Court of Appeals, unless he be a citizen of the United States, a resident of the State two years next preceding his election, of the age of twenty-one years, and have a certificate from a Judge of the Court of Appeals, or a Judge of a Circuit Court, that he has been examined by the Clerk of his Court, under his supervision, and that he is qualified for the office for which he is a candidate.

§ 13. Should a vacancy occur in the office of Clerk of the Court of Appeals, the Governor shall issue a writ of election, and the qualified voters of the State, or of the District in which the vacancy may occur, shall elect a Clerk of the Court of Appeals, to serve until the end of the term for which such Clerk was elected: *Provided*, That when a vacancy shall occur from any cause, or the Clerk be under charges upon information, the Judges of the Court of Appeals shall have

power to appoint a Clerk *pro tem.*, to perform the duties of Clerk until such vacancy shall be filled, or the Clerk acquitted: *And, provided, further,* That no writ of election shall issue to fill a vacancy unless the unexpired term exceed one year.

§ 14. The General Assembly shall direct, by law, the mode and manner of conducting and making due returns to the Secretary of State, of all elections of the Judges and Clerk or Clerks of the Court of Appeals, and of determining contested elections of any of these officers.

§ 15. The General Assembly shall provide for an additional Judge or Judges, to constitute, with the remaining Judge or Judges, a special court for the trial of such cause or causes as may, at any time, be pending in the Court of Appeals, on the trial of which a majority of the Judges cannot sit, on account of interest in the event of the cause; or on account of their relationship to either party; or when a Judge may have been employed in or decided the cause in the inferior court.

CONCERNING THE CIRCUIT COURTS.

§ 16. A Circuit Court shall be established in each county now existing, or which may hereafter be erected, in this Commonwealth.

§ 17. The jurisdiction of said court shall be and remain as now established, hereby giving to the General Assembly the power to change or alter it.

§ 18. The right to appeal or sue out a writ of error in the Court of Appeals shall remain as it now exists, until altered by law, hereby giving to the General Assembly the power to change, alter, or modify said right.

§ 19. At the first session after the adoption of this Constitution, the General Assembly shall divide the State into twelve Judicial Districts, having due regard to business, territory, and population: *Provided,* That no county shall be divided.

§ 20. They shall, at the same time that the Judicial Districts are laid off, direct elections to be held in each District, to elect a Judge for said District, and shall prescribe in what manner the election shall be conducted. The first election of Judges of the Circuit Court shall take place on the second Monday in May, 1851; and afterward on the first Monday in August, 1856, and on the first Monday in August in every sixth year thereafter.

§ 21. All persons qualified to vote for members of the General Assembly, in each District, shall have the right to vote for Judges.

§ 22. No person shall be eligible as Judge of the Circuit Court who is not a citizen of the United States, a resident of the district for

which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practicing lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practiced law, shall not be equal to eight years.

§ 23. The Judges of the Circuit Court shall, after their first term, hold their office for the term of six years from the day of their election. They shall be commissioned by the Governor, and continue in office until their successors be qualified, but shall be removable from office in the same manner as the Judges of the Court of Appeals; and the removal of a Judge from his District shall vacate his office.

§ 24. The General Assembly, if they deem it necessary, may establish one additional District every four years, but the Judicial Districts shall not exceed sixteen, until the population of this State shall exceed one million five hundred thousand.

§ 25. The Judges of the Circuit Courts shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall be equal and uniform throughout the State, and which shall not be diminished during the time for which they were elected.

§ 26. If a vacancy shall occur in the office of Judge of the Circuit Court, the Governor shall issue a writ of election to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than one year, the Governor shall appoint a Judge to fill such vacancy.

§ 27. The Judicial Districts of this State shall not be changed, except at the first session after an enumeration, unless when a new District may be established.

§ 28. The General Assembly shall provide by law for holding Circuit Courts, when, from any cause, the Judge shall fail to attend, or, if in attendance, cannot properly preside.

CONCERNING COUNTY COURTS.

§ 29. A County Court shall be established in each county now existing, or which may hereafter be erected, within this Commonwealth, to consist of a Presiding Judge and two Associate Judges, any two of whom shall constitute a court for the transaction of business: *Provided*, The General Assembly may at any time abolish the office of the Associate Judges, whenever it shall be deemed expedient; in which event they may associate with said Court any or all of the Justices of the Peace for the transaction of business.

§ 30. The Judges of the County Court shall be elected by the qualified voters in each county for the term of four years, and shall continue

in office until their successors shall be duly qualified, and shall receive such compensation for their services as may be provided by law.

§ 31. The first election of County Court Judges shall take place at the same time of the election of Judges of the Circuit Court. The Presiding Judge, first elected, shall hold his office until the first Monday in August, 1854. The Associate Judges shall hold their offices until the first Monday in August, 1852, and until their successors be qualified; and afterward elections shall be held on the first Monday in August, in the years in which vacancies regularly occur.

§ 32. No person shall be eligible to the office of Presiding or Associate Judge of the County Court, unless he be a citizen of the United States, over twenty-one years of age, and shall have been a resident of the county in which he shall be chosen one year next preceding the election.

§ 33. The jurisdiction of the County Court shall be regulated by law; and, until changed, shall be the same now vested in the County Courts of this State.

§ 34. Each county in this State shall be laid off into districts of convenient size, as the General Assembly may, from time to time, direct. Two Justices of the Peace shall be elected in each district, by the qualified voters therein, at such time and place as may be prescribed by law, for the term of four years, whose jurisdiction shall be co-extensive with the county; no person shall be eligible as a Justice of the Peace, unless he be a citizen of the United States, twenty-one years of age, and a resident of the district in which he may be candidate.

§ 35. Judges of the County Court, and Justices of the Peace, shall be conservators of the peace. They shall be commissioned by the Governor. County and district officers shall vacate their offices by removal from the district or county in which they shall be appointed. The General Assembly shall provide, by law, the manner of conducting and making due return of all elections of Judges of the County Court and Justices of the Peace, and for determining contested elections, and provide the mode of filling vacancies in these offices.

§ 36. Judges of the County Court and Justices of the Peace, Sheriffs, Coroners, Surveyors, Jailers, County Assessor, Attorney for the County, and Constables, shall be subject to indictment or presentment for malfeasance or misfeasance in office, or willful neglect in the discharge of their official duties, in such mode as may be prescribed by law, subject to appeal to the Court of Appeals; and, upon conviction, their offices shall become vacant.

§ 37. The General Assembly may provide, by law, that the Justices of the Peace in each county shall sit at the Court of Claims and assist in laying the county levy and making appropriations only.

§ 38. When any city or town shall have a separate representation, such city or town, and the county in which it is located, may have such separate municipal courts, and executive and ministerial officers as the General Assembly may, from time to time, provide.

§ 39. The Clerks of the Court of Appeals, Circuit, and County Courts, shall be removable from office by the Court of Appeals, upon information and good cause shown. The Court shall be judges of the fact as well as the law. Two-thirds of the members present must concur in the sentence.

§ 40. The Louisville Chancery Court shall exist under this Constitution, subject to repeal, and its jurisdiction to enlargement and modification, by the General Assembly. The Chancellor shall have the same qualifications as a Circuit Court Judge, and the Clerk of said Court as the Clerk of a Circuit Court, and the Marshal of said Court as a Sheriff; and the General Assembly shall provide for the election, by the qualified voters within its jurisdiction, of the Chancellor, Clerk and Marshal of said Court, at the same time that the Judge and Clerk of the Circuit Court are elected for the county of Jefferson, and they shall hold their offices for the same time, and shall be removable in the same manner; *Provided*, That the Marshal of said Court shall be ineligible for the succeeding term.

§ 41. The City Court of Louisville, the Lexington City Court, and all other Police Courts established in any city or town, shall remain until otherwise directed by law, with their present powers and jurisdictions; and the Judges, Clerks, and Marshals of such courts shall have the same qualifications, and shall be elected by the qualified voters of such cities or towns, at the same time, and in the same manner, and hold their offices for the same term, as County Judges, Clerks and Sheriffs, respectively, and shall be liable to removal in the same manner. The General Assembly may vest judicial powers, for police purposes, in Mayors of cities, Police Judges and Trustees of towns.

ARTICLE V.

CONCERNING IMPEACHMENTS.

SECTION 1. The House of Representatives shall have the sole power of impeachment.

§ 2. All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

§ 3. The Governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall

not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial and punishment by law.

ARTICLE VI.

CONCERNING EXECUTIVE AND MINISTERIAL OFFICERS FOR COUNTIES AND DISTRICTS.

SECTION 1. A Commonwealth's Attorney for each Judicial District, and a Circuit Court Clerk for each county, shall be elected, whose term of office shall be the same as that of the Circuit Judges; also, a County Court Clerk, an Attorney, Surveyor, Coroner and Jailer, for each county, whose term of office shall be the same as that of the Presiding Judge of the County Court.

§ 2. No person shall be eligible to the offices mentioned in this article, who is not at the time twenty-four years old (except Clerks of County and Circuit Courts, Sheriffs, Constables, and County Attorneys, who shall be eligible at the age of twenty-one years), a citizen of the United States, and who has not resided two years next preceding the election in the State, and one year in the county or district for which he is a candidate. No person shall be eligible to the office of Commonwealth's or County Attorney, unless he shall have been a licensed practicing attorney for two years. No person shall be eligible to the office of Clerk, unless he shall have procured from a Judge of the Court of Appeals, or a Judge of the Circuit Court, a certificate that he has been examined by the Clerk of his Court, under his supervision, and that he is qualified for the office for which he is a candidate.

§ 3. The Commonwealth's Attorney, and Circuit Court Clerk, shall be elected at the same time as the Circuit Judge—the Commonwealth's Attorney by the qualified voters of the district, the Circuit Court Clerk by the qualified voters of the county. The County Attorney, Clerk, Surveyor, Coroner and Jailer, shall be elected at the same time, and in the same manner, as the Presiding Judge of the County Court.

§ 4. A Sheriff shall be elected in each county, by the qualified voters thereof, whose term of office shall, after the first term, be two years, and until his successor shall be qualified: and he shall be re-eligible for a second term; but no Sheriff shall, after the expiration of the second term, be re-eligible, or act as deputy, for the succeeding term. The first election of Sheriff, shall be on the second Monday in May, 1851; and the Sheriffs, then elected, shall hold their offices until the first Monday in January, 1853, and until their successors be qualified; and

on the first Monday in August, 1852, and on the first Monday of August in every second year thereafter, elections for Sheriffs shall be held: *Provided*, That the Sheriffs first elected shall enter upon the duties of their respective offices on the first Monday in June, 1851, and after the first election on the first Monday in January next succeeding their election.

§ 5. A Constable shall be elected in every Justice's district, who shall be chosen for two years, at such time and place as may be provided by law, whose jurisdiction shall be co-extensive with the county in which he may reside.

§ 6. Officers for towns and cities shall be elected for such terms, and in such manner, and with such qualifications, as may be prescribed by law.

§ 7. Vacancies in offices under this article shall be filled, until the next regular election, in such manner as the General Assembly may provide.

§ 8. When a new county shall be erected, officers for the same, to serve until the next stated election, shall be elected, or appointed in such a way and at such times as the General Assembly may prescribe.

§ 9. Clerks, Sheriffs, Surveyors, Coroners, Constables and Jailers, and such other officers as the General Assembly may from time to time require, shall, before they enter upon the duties of their respective offices, and as often thereafter as may be deemed proper, give such bond and security as shall be prescribed by law.

§ 10. The General Assembly may provide for the election or appointment, for a term not exceeding four years, of such other county or district ministerial and executive officers as shall, from time to time, be necessary and proper.

§ 11. A County Assessor shall be elected in each county at the same time, and for the same term, that the Presiding Judge of the County Court is elected, until otherwise provided for by law. He shall have power to appoint such assistants as may be necessary and proper.

ARTICLE VII.

CONCERNING THE MILITIA.

SECTION 1. The militia of this Commonwealth, shall consist of all free, able-bodied male persons (negroes, mulattoes and Indians excepted), resident in the same, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this State; but those who belong to religious societies, whose tenets forbid them to carry

arms, shall not be compelled to do so, but shall pay an equivalent for personal services.

§ 2. The Governor shall appoint the Adjutant-General and his other staff officers; the Major-Generals, Brigadier-Generals and commandants of regiments, shall, respectively, appoint their staff officers; and commandants of companies shall appoint their non-commissioned officers.

§ 3. All militia officers, whose appointment is not herein otherwise provided for, shall be elected by persons subject to military duty, within their respective companies, battalions, regiments, brigades and divisions, under such rules and regulations, and for such terms, not exceeding six years, as the General Assembly may, from time to time, direct and establish.

ARTICLE VIII.

GENERAL PROVISIONS.

SECTION 1. Members of the General Assembly, and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation "I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of this State, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ——— according to law; and I do further solemnly swear (or affirm), that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel, with deadly weapons, within this State nor out of it, with a citizen of this State; nor have I sent or accepted a challenge to fight a duel with deadly weapons, with a citizen of this State; nor have I acted as second in carrying a challenge, or aided, or assisted any person thus offending, so help me God."

§ 2. Treason against the Commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 3. Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat to procure his election.

§ 4. Laws shall be made to exclude from office, and from suffrage,

those who shall thereafter be convicted of bribery, perjury, forgery or other crimes or high misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult or other improper practices.

§ 5. No money shall be drawn from the treasury, but in pursuance of appropriations made by law, nor shall any appropriations of money for the support of an army, be made for a longer time than two years, and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

§ 6. The General Assembly may direct, by law, in what manner, and in what courts, suits may be brought against the Commonwealth.

§ 7. The manner of administering an oath or affirmation, shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the General Assembly the most solemn appeal to God.

§ 8. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this Constitution, nor to the laws which have been enacted by the General Assembly of this Commonwealth, shall be in force within this State, until they shall be altered or repealed by the General Assembly.

§ 9. The compact with the State of Virginia, subject to such alterations as may be made therein, agreeably to the mode prescribed by the said compact, shall be considered as part of this Constitution.¹

¹ This section has been continued down from the first organization of the State Government, and although it has seldom or never been printed with the Constitution, it is here presented as a part thereof, and as an interesting historical item. It is found in the Act of the General Assembly of Virginia, passed December 18, 1789, concerning the erection of the District of Kentucky into an independent State:

"4. The said Convention shall be held at Danville, on the 26th day of July next, and shall and may proceed, after choosing a President and other proper officers, and settling the proper rules of proceeding, to consider and determine whether it is expedient for, and the will of the good people of the said District, that the same be erected into an independent State, on the terms and conditions following:

"5. *First*, That the boundary, between the proposed State and Virginia, shall remain the same as at present separates the District from the residue of this Commonwealth.

"6. *Second*, That the proposed State shall take upon itself a just proportion of the debt of the United States, and the payment of all the certificates granted on account of the several expeditions carried on from the Kentucky District against the Indians, since the first day of January, 1785.

"7. *Third*, That all private rights and interests of lands within the said District, derived from the laws of Virginia, prior to such separation, shall remain valid and secure, under the laws of the proposed State, and shall be determined by the laws now existing in this State.

"8. *Fourth*, That the lands within the proposed State, of non-resident proprietors, shall not, in any case, be taxed higher than the lands of residents, at any time prior to the admission of the proposed State to a vote by its delegates in Congress, where such non-residents reside out of the United States; nor at any time, either before or after such admission, where such non-residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any land, within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty, within the term of six years after the admission of the said State into the Federal Union.

"9. *Fifth*, That no grant of land, or land warrant to be issued by the proposed State, shall

§ 10. It shall be the duty of the General Assembly to pass such laws as shall be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

§ 11. All civil officers for the Commonwealth, at large, shall reside within the State, and all district, county, or town officers, within their respective districts, counties, or towns (trustees of towns excepted), and shall keep their offices at such places therein as may be required by law; and all militia officers shall reside in the bounds of the division, brigade, regiment, battalion, or company, to which they may severally belong.

§ 12. Absence on the business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this Commonwealth, under the exception contained in this Constitution.

§ 13. It shall be the duty of the General Assembly, to regulate by law, in what cases, and what deductions from the salaries of public officers shall be made, for neglect of duty in their official capacity.

§ 14. Returns of all elections by the people, shall be made to the Secretary of State, for the time being, except in those cases otherwise provided for in this Constitution, or which shall be otherwise directed by law.

§ 15. In all elections by the people, and also by the Senate and House of Representatives, jointly or separately, the votes shall be personally and publicly given, *viva voce* : *Provided*, That dumb persons, entitled to suffrage, may vote by ballot.

§ 16. All elections by the people shall be held between the hours of six o'clock in the morning and seven o'clock in the evening.

§ 17. The General Assembly shall, by law, prescribe the time when the several officers, authorized or directed by this Constitution to be

interfere with any warrant heretofore issued from the Land Office of Virginia, which shall be located on land within said district, now liable thereto, on or before the 1st day of September, 1791.

"10. *Sixth*, That the unlocated lands within the said District, which stand appropriated to individuals, or description of individuals, by the laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of Virginia, according to such appropriation, until the 1st day of May, 1792, and no longer; thereafter the residue of all lands remaining within the limits of the said District shall be subject to the disposition of the proposed State.

"11. *Seventh*, That the use and navigation of the river Ohio, so far as the territory of the proposed State, or the territory which shall remain within the limits of this Commonwealth, lies thereon, shall be free and common to the citizens of the United States, and the respective jurisdictions of this Commonwealth, and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river.

"12. *Eighth*, That in case any complaint or dispute shall, at any time, arise between the Commonwealth of Virginia and the said District, after it shall be an independent State, concerning the meaning or execution of the foregoing articles, the same shall be determined by six Commissioners, of whom two shall be chosen by each of the parties, and the remainder by the Commissioners so first appointed."

elected or appointed, shall enter upon the duties of their respective offices, except where the time is fixed by this Constitution.

§ 18. No member of Congress, nor person holding or exercising any office of trust or profit under the United States or either of them, or under any foreign power, shall be eligible as a member of the General Assembly of this Commonwealth, or hold or exercise any office of trust or profit under the same.

§ 19. The General Assembly shall direct, by law, how persons who now are, or who may hereafter become, securities for public officers, may be relieved or discharged on account of such securityship.

§ 20. Any person who shall, after the adoption of this Constitution, either directly or indirectly, give, accept, or knowingly carry a challenge to any person or persons, to fight in single combat with a citizen of this State, with any deadly weapon, either in or out of the State, shall be deprived of the right to hold any office of honor or profit in this Commonwealth, and shall be punished otherwise, in such manner as the General Assembly may prescribe by law.

§ 21. The Governor shall have power, after five years from the time of the offense, to pardon all persons who shall have in anywise participated in a duel, either as principals, seconds, or otherwise, and to restore him or them to all the rights, privileges, and immunities to which he or they were entitled before such participation. And upon the presentation of such pardon, the oath prescribed in the first section of this article shall be varied to suit the case.

§ 22. At its first session, after the adoption of this Constitution, the General Assembly shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and arrange the statute laws of this Commonwealth, both civil and criminal, so as to have but one law on any one subject; and, also, three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this Commonwealth, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the General Assembly, for their adoption or modification.

§ 23. So long as the Board of Internal Improvement shall be continued, the President thereof shall be elected by the qualified voters of this Commonwealth, and hold the office for the term of four years, and until another be duly elected and qualified. The election shall be held at the same time, and be conducted in the same manner, as the election of Governor of this Commonwealth under this Constitution; but nothing herein contained, shall prevent the General Assembly from abolishing said Board of Internal Improvement, or the office of President thereof.

§ 24. The General Assembly shall provide by law for the trial of any contested election of Auditor, Register, Treasurer, Attorney-General, Judges of Circuit Courts, and all other officers not otherwise herein specified.

§ 25. The General Assembly shall provide by law for the making of the returns by the proper officers, of the election of all officers to be elected under this Constitution; and the Governor shall issue commissions to the Auditor, Register, Treasurer, President of the Board of Internal Improvement, Superintendent of Public Instruction, and such other officers as he may be directed by law to commission, as soon as he has ascertained the result of the election of those officers respectively.

§ 26. When a vacancy shall happen in the office of Attorney-General, Auditor of Public Accounts, Treasurer, Register of the Land Office, President of the Board of Internal Improvement, or Superintendent of Public Instruction, the Governor, in the recess of the Senate, shall have power to fill the vacancy by granting commissions which shall expire at the end of the next session, and shall fill the vacancy for the balance of the time by and with the advice and consent of the Senate.

ARTICLE IX.

CONCERNING THE SEAT OF GOVERNMENT.

The seat of government shall continue in the city of Frankfort until it shall be removed by law: *Provided, however,* That two-thirds of all the members elected to each House of the General Assembly shall concur in the passage of such law.

ARTICLE X.¹

CONCERNING SLAVES.

SECTION 1. The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated, and providing for their removal from the State. They shall have no power to prevent immigrants to the State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit owners of slaves to emancipate them, saving the rights of creditors, and to pre-

¹ Superseded by adoption of Article XIII of Amendments to the Constitution of the United States.

vent them from remaining in this State after they are emancipated. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent slaves being brought into this State, who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity; to provide for them necessary clothing and provisions; to abstain from all injuries to them, extending to life or limb; and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

§ 2. The General Assembly shall pass laws providing that any free negro or mulatto hereafter immigrating to, and any slave hereafter emancipated in, and refusing to leave, this State, or having left, shall return and settle within this State, shall be deemed guilty of felony, and punished by confinement in the penitentiary thereof.

§ 3. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary; but the proceedings in such prosecutions shall be regulated by law, except that the General Assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.

ARTICLE XI.

CONCERNING EDUCATION.

SECTION 1. The capital of the fund called and known as the "Common School Fund," consisting of one million two hundred and twenty-five thousand seven hundred and sixty-eight dollars and forty-two cents, for which bonds have been executed by the State to the Board of Education, and seventy-three thousand five hundred dollars of stock in the Bank of Kentucky; also, the sum of fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents, balance of interest on the school fund for the year 1848, unexpended, together with any sum which may be hereafter raised in the State by taxation, or otherwise, for purposes of education, shall be held inviolate, for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose. The General Assembly shall invest said fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents, in some safe and profitable manner; and any portion of the interest and dividends of said school fund, or other money or property raised for school pur-

poses, which may not be needed in sustaining common schools, shall be invested in like manner. The General Assembly shall make provision, by law, for the payment of the interest of said school fund: *Provided*, That each county shall be entitled to its proportion of the income of said fund, and if not called for, for common school purposes, it shall be re-invested from time to time for the benefit of such county.

§ 2. A Superintendent of Public Instruction shall be elected by the qualified voters of this Commonwealth, at the same time the Governor is elected, who shall hold his office for four years, and his duties and salary shall be prescribed and fixed by law.

ARTICLE XII.

MODE OF REVISING THE CONSTITUTION.

SECTION 1. When experience shall point out the necessity of amending this Constitution, and when a majority of all the members elected to each House of the General Assembly shall, within the first twenty days of any regular session, concur in passing a law for taking the sense of the good people of this Commonwealth as to the necessity and expediency of calling a Convention, it shall be the duty of the several Sheriffs, and other officers of elections, at the next general election which shall be held for Representatives to the General Assembly, after the passage of such law, to open a poll for, and make return to the Secretary of State, for the time being, of the names of all those entitled to vote for Representatives, who have voted for calling a Convention; and if, thereupon, it shall appear that a majority of all the citizens of this State, entitled to vote for Representatives, have voted for calling a Convention, the General Assembly shall, at their next regular session, direct that a similar poll shall be opened, and return made, for the next election for Representatives; and if, thereupon, it shall appear that a majority of all the citizens of this State, entitled to vote for Representatives, have voted for calling a Convention, the General Assembly shall, at their next session, pass a law calling a Convention, to consist of as many members as there shall be in the House of Representatives, and no more; to be chosen on the first Monday in August thereafter, in the same manner and proportion, and at the same places, and possessed of the same qualifications of a qualified elector, by citizens entitled to vote for Representatives; and to meet within three months after their election, for the purpose of re-adopting, amending, or changing this Constitution; but if it shall appear by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for Representatives did

not vote for calling a Convention, a Convention shall not then be called. And for the purpose of ascertaining whether a majority of the citizens, entitled to vote for Representatives, did or did not vote for calling a Convention, as above, the General Assembly passing the law authorizing such vote, shall provide for ascertaining the number of citizens entitled to vote for Representatives within the State.

§ 2. The Convention, when assembled, shall judge of the election of its members and decide contested elections, but the General Assembly shall, in calling a Convention, provide for taking testimony in such cases, and for issuing a writ of election in case of a tie.

ARTICLE XIII.

BILL OF RIGHTS.

That the general, great and essential principles of liberty and free government may be recognized and established, WE DECLARE,

SECTION 1. That all freemen, when they form a social compact, are equal, and that no man, or set of men, are entitled to exclusive, separate public emoluments or privileges from the community, but in consideration of public services.

§ 2. That absolute, arbitrary power over the lives, liberty and property of freemen, exists nowhere in a republic, not even in the largest majority.

§ 3. The right of property is before, and higher, than any constitutional sanction; and the right of the owner of a slave to such slave, and its increase, is the same, and as inviolable, as the right of the owner of any property whatever.

§ 4. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, happiness, security, and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government, in such manner as they may think proper.

§ 5. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious societies or modes of worship.

§ 6. That the civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

§ 7. That all elections shall be free and equal.

§ 8. That the ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this Constitution.

§ 9. That printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly, or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty.

§ 10. In prosecutions for the publication of papers, investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

§ 11. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches, and that no warrant to search any place, or to seize any person or thing, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

§ 12. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself; nor can he be deprived of his life, liberty or property, unless by the judgment of his peers, or the law of the land.

§ 13. That no person shall, for any indictable offense, be proceeded against criminally, by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office.

§ 14. No person shall, for the same offense, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use, without the consent of his representatives, and without just compensation being previously made to him.

§ 15. That all courts shall be open, and every person, for an injury done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered, without sale, denial or delay.

§ 16. That no power of suspending laws shall be exercised, unless by the General Assembly or its authority.

§ 17. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

§ 18. That all prisoners shall be bailable by sufficient securities, unless for capital offenses, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

§ 19. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

§ 20. That no *ex post facto* law, nor any law impairing contracts, shall be made.

§ 21. That no person shall be attainted of treason or felony by the General Assembly.

§ 22. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth.

§ 23. That the estates of such person as shall destroy their own lives, shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

§ 24. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government, for redress of grievances or other proper purposes, by petition, address or remonstrance.

§ 25. That the rights of the citizens to bear arms in defense of themselves and the State shall not be questioned; but the General Assembly may pass laws to prevent persons from carrying concealed arms.

§ 26. That no standing army shall, in time of peace, be kept up, without the consent of the General Assembly; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

§ 28. That the General Assembly shall not grant any title of nobility, or hereditary distinction, nor create any office, the appointment to which shall be for a longer time than for a term of years.

§ 29. That emigration from the State shall not be prohibited.

§ 30. To guard against transgressions of the high powers which we have delegated, WE DECLARE, that every thing in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to this Constitution, shall be void.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the Constitution of this Commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all the laws of this Commonwealth, in force at the time of the adoption of this Constitution, and not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, shall continue as if this Constitution had not been adopted.

§ 2. The oaths of office herein directed to be taken may be administered by any Judge or Justice of the Peace, until the General Assembly shall otherwise direct.

§ 3. No officer shall be superseded by the adoption of this Constitution, but the laws of the State relative to the duties of the several officers, Legislative, Executive, Judicial and Military, shall remain in full force, though the same be contrary to this Constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, under the organization of the Government, as provided for under this Constitution, and the entering into office of the officers to be elected or appointed under said Government, and no longer.

§ 4. It shall be the duty of the General Assembly which shall convene in the year 1850, to make an apportionment of the representation of this State, upon the principle set forth in this Constitution; and until the first apportionment shall be made, as herein directed, the apportionment of Senators and Representatives, among the several districts and counties in this State, shall remain as at present fixed by law; *Provided*, That on the first Monday in August, 1850, all Senators shall go out of office, and on that day an election for Senators and Representatives shall be held throughout the State, and those then elected shall hold their offices for one year, and no longer: *Provided, further*, That at the elections to be held in the year 1850, that provision in this Constitution which requires voters to vote in the precinct within which they reside shall not apply.

§ 5. All recognizances heretofore taken, or which may be taken before the organization of the Judicial Department under this Constitution, shall remain as valid as though this Constitution had not been adopted, and may be prosecuted in the name of the Commonwealth. All criminal prosecutions and penal actions which have arisen, or may arise, before the re-organization of the Judicial Department under this Constitution, may be prosecuted to judgment and execution, in the name of the Commonwealth.

We, the Representatives of the freemen of Kentucky, in Convention assembled, in their name, and by the authority of the Commonwealth of Kentucky, and in virtue of the powers vested in us, as Delegates from the counties respectively affixed to our names, do ordain and proclaim the foregoing to be the Constitution of the Commonwealth of Kentucky from and after this day.

Done at Frankfort, this eleventh day of June, in the year of our Lord one thousand eight hundred and fifty, and in the fifty-ninth year of the Commonwealth.

JAMES GUTHRIE,

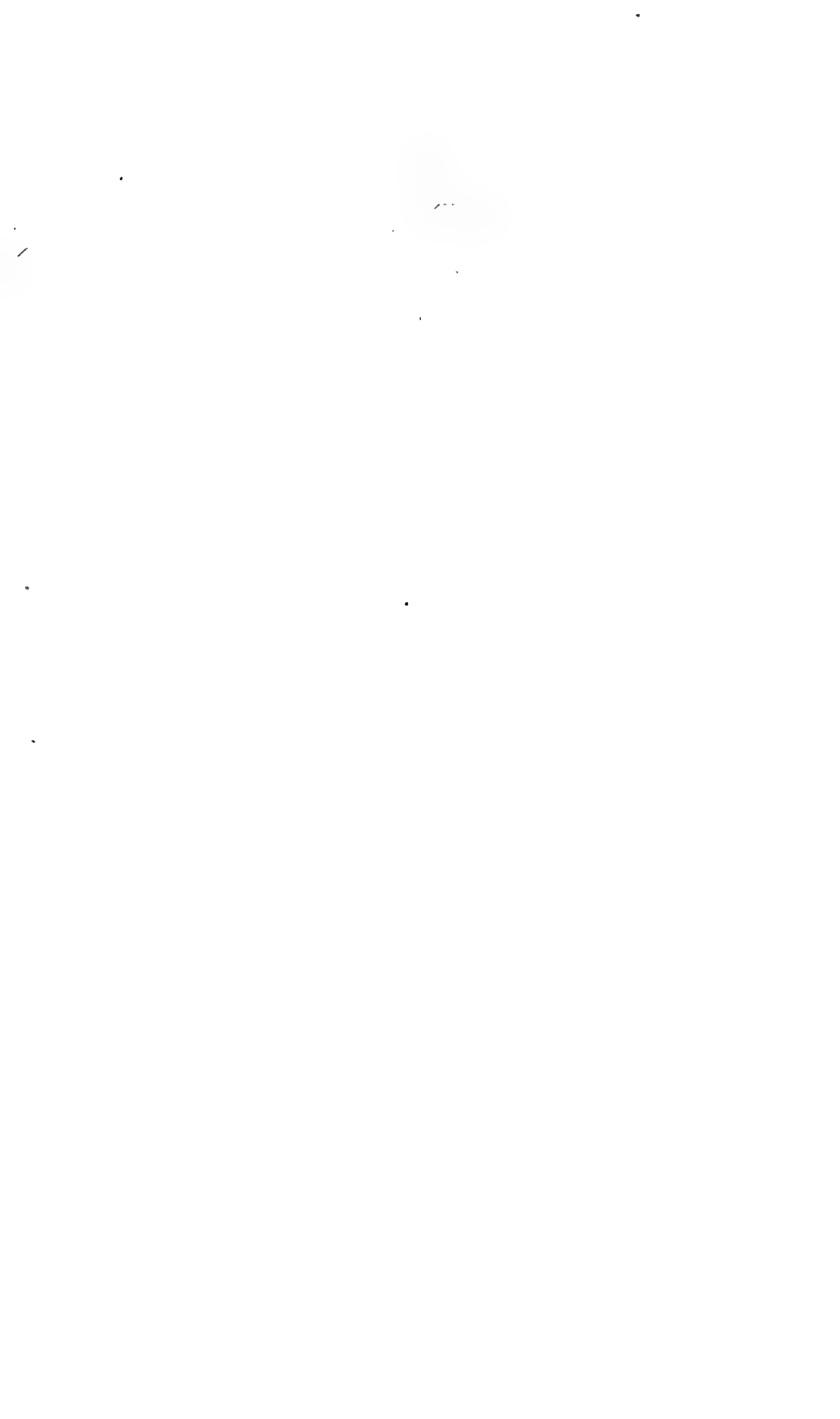
*President of the Convention,
and Member from the city of Louisville.*

(Attest) THO. S. HELM, *Secretary of the Convention.*

THO. D. TILFORD, *Assistant Secretary.*

<i>Adair.</i> Nathan Gaither.	<i>Boyle.</i> Albert G. Talbott.	<i>Carroll and Gallatin.</i> John T. Robinson.
<i>Allen.</i> George W. Mannsfield.	<i>Bracken.</i> William C. Marshall.	<i>Carter and Laurence.</i> Thomas J. Hood.
<i>Anderson.</i> George W. Kavanaugh.	<i>Breathitt and Morgan.</i> John Hargis.	<i>Casey.</i> Jesse Coffey.
<i>Ballard and McCracken.</i> Richard D. Gholson.	<i>Breckenridge.</i> Daniel J. Stephens.	<i>Christian.</i> John D. Morris. Ninian E. Gray.
<i>Barren.</i> John T. Rogers, Robert D. Maupin.	<i>Bullitt.</i> William R. Thompson.	<i>Clarke.</i> Andrew Hood.
<i>Bath.</i> James M. Nesbitt.	<i>Butler and Edmonson.</i> Vincent S. Hay.	<i>Clay, Letcher and Perry.</i> James H. Garrard.
<i>Boone.</i> Charles Chambers.	<i>Caldwell.</i> Willis B. Machen.	<i>Cumberland and Clinton.</i> Michael L. Stoner.
<i>Bourbon.</i> George W. Williams, Richard H. Hanson.	<i>Calloway and Marshall.</i> Edward Curd.	<i>Crittenden.</i> Henry R. D. Coleman.
	<i>Campbell.</i> Ira Root.	<i>Davies.</i> Philip Triplett.

<i>Estill and Owsley.</i> Luther Brawner.	<i>Kenton.</i> John W. Stevenson.	<i>Owen.</i> Howard Todd.
<i>Fayette.</i> James Dudley, Robert N. Wickliffe.	<i>Knox and Harlan.</i> Silas Woodson.	<i>Ohio and Hancock.</i> John H. McHenry.
<i>Fleming.</i> Will W. Blair.	<i>Larue.</i> James P. Hamilton.	<i>Pendleton.</i> John Wheeler.
<i>Floyd, Pike and Johnson.</i> James M. Lackey.	<i>Laurel and Rockcastle.</i> Jonathan Newcum.	<i>Pulaski.</i> James D. Allicorn.
<i>Franklin.</i> Thomas N. Lindsey.	<i>Lewis.</i> Larkin J. Proctor.	<i>Russell.</i> Nathan McClure.
<i>Garrard.</i> 	<i>Lincoln.</i> John L. Ballinger.	<i>Scott.</i> William Johnson.
<i>Grant.</i> William Hendrix.	<i>Livingston.</i> William Cowper.	<i>Simpson.</i> Beverly L. Clarke.
<i>Graves.</i> Richard L. Mayes.	<i>Logan.</i> William K. Bowling, James W. Irving.	<i>Shelby.</i> Andrew S. White. George W. Johnston.
<i>Grayson.</i> John T. Thurman.	<i>Louisville (city).</i> James Rudd, William Preston.	<i>Spencer.</i> Mark E. Huston.
<i>Green.</i> Thomas W. Leslie.	<i>Madison.</i> Squire Turner, William Chenault.	<i>Taylor.</i> William N. Marshall.
<i>Greenup.</i> Henry B. Pollard.	<i>Marion.</i> Green Forest.	<i>Todd.</i> Francis M. Bristow.
<i>Hardin.</i> Thomas D. Brown, James W. Stone.	<i>Mason.</i> Peter Lashbrooke, John D. Taylor.	<i>Twigg.</i> Alfred Boyd.
<i>Harrison.</i> Hugh Newell, Lucius Desha.	<i>Meade.</i> Thomas J. Gough.	<i>Trimble.</i> Wesley J. Wright.
<i>Hart.</i> Benjamin Copelin.	<i>Mercer.</i> Thomas P. Moore.	<i>Union.</i> Ignatius A. Spalding.
<i>Henderson.</i> Archibald Dixon.	<i>Monroe.</i> John S. Barlow.	<i>Warren.</i> Chasteen T. Dunavan.
<i>Henry.</i> Elijah F. Nuttall.	<i>Montgomery.</i> Richard Apperson.	<i>Washington.</i> Charles Cooper Kelly.
<i>Hickman and Fulton.</i> Thomas James.	<i>Muhlenburg.</i> Alfred M. Jackson.	<i>Wayne.</i> James S. Chrisman.
<i>Hopkins.</i> William Bradley.	<i>Nelson.</i> Ben. Hardin, Charles A. Wickliffe.	<i>Whitley.</i> Thomas Rockhold.
<i>Jefferson.</i> David Meriwether, William C. Bullitt,	<i>Nicholas.</i> Benjamin F. Edwards.	<i>Woodford.</i> John L. Waller.
<i>Jessamine.</i> Alex. K. Marshall.		





LOUISIANA.

The Mississippi river was first seen by Europeans, in 1542, when Hernando De Soto, at the head of a Spanish force, penetrating the country northwestward from Florida, in search of treasure, crossed the river, and continued his progress to some distance beyond. The enterprising leader of this expedition sickened, died, and was buried in its waters, and the shattered remnant that found its way back brought no alluring reports of golden regions to attract other adventurers thither. In the summer of 1673, the river was again explored by a small party of Canadians, under Father Marquette, and Joliet, a trader; and, in 1682, Sjeur de La Salle made his first expedition to the upper waters of the Mississippi, which he subsequently descended to its mouth. He took possession of this vast region in the name of the King of France, giving it the name of "Louisiana," in compliment to his sovereign, Louis XIV.

Settlement was first made by the French, mainly for purposes of trade, and in the hope of finding valuable mines. On the 14th of September, 1712, the monopoly of trade and commerce in this region was granted by Louis XIV to Anthony Crozart, for the term of fifteen years, with the permanent right of possession to all mines that he might discover and work, upon the payment to the Crown of certain royalties specified in the grant, which extended to all the lands claimed by France, by virtue of discovery and occupation, from Mexico to Carolina, "and principally the port and haven of the Isle Dauphine, heretofore called Massacre; the river of St. Louis, heretofore called Mississippi, from the edge of the sea, as far as the Illinois, together with the river of St. Philip, heretofore called the Missourys, and of St. Jerome, heretofore called Ouabashe, with all the countries, territories, lakes within land, and the rivers which fall directly or indirectly into that part of the River St. Louis."

In 1717, Crozart surrendered his grant to the Crown, and, on the 6th of September of that year, the same territory was granted for a term of twenty-five years to the "Western Company," or, as it was afterward called, the "Company of the Indies," of which the celebrated speculating financier, John Law, was the principal mover. He proposed a magnificent scheme for the payment of the national debt, the increase of the government revenues, and the reduction of taxation, by the creation of a bank, and the issue of bills of credit, based upon the fancied revenues to be derived from the exclusive privileges of trade with Louisiana, and other colonial possessions. Other schemes were added, until the corporation acquired a nominal jurisdiction and power far surpassing that of any ever before acquired by the boldest speculators. The "Mississippi Scheme," after a short run of popularity, soon collapsed, and brought ruin upon all who had invested real wealth in its worthless stocks. It gave, however, an impulse to the growth of Louisiana while the delusion lasted.

The "Western Company" surrendered its grant to the Crown in 1730, and the colony of Louisiana remained a Royal province, without further change of jurisdiction, until November 3, 1762, when it was ceded by France to Spain, by a secret convention at Fontainebleau, which was not, however, publicly known until 1764. The jurisdiction of Louisiana up to this time had been regarded as extending eastward to the Perdido river, and French settlements had, for a long period, been maintained at Mobile and on Dauphine island, at the entrance of Mobile bay.

By this convention, Spain acquired all the region hitherto claimed by France west of the Mississippi river, and the island upon which the city of New Orleans is built upon the east. The remainder of the French territory in this region, east of the Mississippi river, was ceded in 1763 to Great Britain, and a portion of the present State of Louisiana was included in the British Province of West Florida.

In 1765, the Spanish authority was asserted in Louisiana, although formal possession was not given until August 18, 1769, the country in the mean time continuing practically under the laws and regulations that had been previously established. The Floridas were retroceded to Spain by Great Britain in 1783, and, by the treaty of peace between the United States and Great Britain in 1782-3, the southern boundary of the United States in this region was fixed at the 31st degree of north latitude eastward from the Mississippi to the Chattahooche river.

By a secret treaty held at St. Ildefonso, October 1, 1800, between Spain and the French Republic, the former agreed, as an incidental condition to a bargain for an increase of the territories of the Duchy of Parma, to enable the infant Duke of Parma, grandson to Ferdinand VII, to bear the title of King, to re-cede the province of Louisiana to France, within six months after the latter had complied with their Italian engagement. The colony thus conveyed was to have the same extent as while in the previous possession of France, and such as it ought to have under treaties subsequently concluded between Spain and other States. This cession remained a secret until negotiations were commenced in 1801, for a purchase by the United States.

The occupation of the mouth of the Mississippi river by a foreign power, began to be felt as a serious inconvenience by the citizens of the United States living upon that river and its tributaries, although the right of free navigation of the Mississippi, and the privilege of deposit at New Orleans, or at some other convenient place on the river, and of exportation free of duty, were guaranteed by treaties. But in 1802, the Spanish Governor of Louisiana closed the port of New Orleans against the United States, which caused intense excitement along the western border of the United States, and active discussions in Congress, upon this violation of the pledges given by a solemn treaty. Propositions were made for the seizure of the port of New Orleans by force, but milder measures were found, to secure a final and satisfactory settlement of the pending difficulties.

The prospect of a new European war, and the possibility of losing his Louisiana possessions altogether, may have influenced Napoleon in deciding to enter upon a negotiation for the sale of the whole of that Province to the United States. It was at first the intention of the American Ministers only to purchase the Island of Orleans, with so much of the Floridas as could be obtained. The negotiation finally ended with the purchase of the whole of the Province, so far as the claims of France extended, on both sides of the river.

By a treaty with France, concluded at Paris on the 30th of April, 1803, the United States acquired the title of the territories formerly known as Louisiana, upon the payment of \$15,000,000, viz., \$11,250,000 in money, and the obligation to pay certain claims of citizens of the United States against France, on account of supplies furnished, embargoes, and prizes made at sea, to an extent not exceeding \$3,750,000 more. Although ceded to France by Spain three years before, the latter continued to hold possession until within a few days before its final transfer to the United States, when citizen Lausat, an agent on behalf of France, appeared, and on the 20th of December, 1803, delivered the Province and its dependencies to General Wilkinson, the agent appointed to receive it on the part of the United States.

The President had been authorized, by an act passed on the 31st of October, 1803, to take possession of Louisiana, and hold it until organized by the action of Congress; and on the 10th of November of that year, an act was passed, creating stock to the amount of \$11,250,000, for the purpose of carrying the agreement with France into effect, by making provision for the payments then undertaken. On the same day an act was passed for the settlement of claims against the Government of France, which had been assumed by the United States, to the extent of \$3,750,000, making the total purchase-money \$15,000,000.

All treaties with Indian tribes were to be observed until modified by their consent; private rights remained unchanged; and it was stipulated that the inhabitants of the ceded territory should be incorporated into the Union of the United States, and be admitted as soon as possible, according to the principles of the Federal Constitution, to the full enjoyment of all the rights, advantages and immunities of citizens of the United States.

On the 26th of March, 1804, the Louisiana purchase was divided into two territories. The portion south of 33° north latitude, from the Mississippi river westward as far as the Sabine river; and, on the east of the Mississippi, all of the recent purchase south of the Territory of Mississippi as it then existed, was formed into the Territory of Orleans.

Under the French Government, the inhabitants of Louisiana had enjoyed but little political power, and under that of Spain still less. In the establishment of a Territorial Government, the important offices—the Governor, Secretary, and Legislative Council—were appointed by the President. The Spanish Code in force at the time of the transfer was continued, so far as not repugnant to the Constitution and laws of the United States, until it should be altered by law; the Territorial act established a District Federal Court, and a Superior Territorial Court, to consist of three Judges, the inferior tribunals being left to the local government.

Trial by jury was to be enjoyed in all capital cases, and in such other cases, civil and criminal, as it might be demanded by either party. The writ of *habeas corpus* was secured, and the right of giving bail, except in capital cases where the presumption of guilt was strong. The Governor's term was limited to three years, and the Legislative Council to one.

On the 2d of March, 1805, the Territory of Orleans was fully organized, as a Territory of the first class, in all respects like Mississippi Territory, and with permission for the organization of a State Government whenever the population should amount to 60,000.

The portion of the Louisiana purchase north of Orleans Territory, was at first attached to Indiana Territory; but, on the 3d of March, a separate Territorial Government, of the second class, was formed. No part of this Territory was included within the present State of Louisiana.

The inhabitants of Orleans Territory were authorized, by an act of Congress, approved February 20, 1811, to form a Constitution and State Government. To this end, the Territorial Legislature was to provide for an election of delegates to a Convention which was authorized to meet at New Orleans, on the 1st Monday of November of that year, and, having first voted upon the expediency of forming a Constitution or not, were to proceed (if the vote was favorable) to declare, in behalf of the people of the Territory, that it adopted the Constitution of the United States. Whereupon it might proceed to frame a State Constitution upon principles consistent with the National Constitution. It was also required to contain the fundamental principles of civil and religious liberty, and secure to the citizens the trial by jury in criminal cases, and the privilege of the writ of *habeas corpus*. All laws, records, and judicial and legislative proceedings

were to be preserved in the English language. All unappropriated lands were to remain the property of the United States, and, while they so continued, they were not to be taxed; and the right of navigation of the Mississippi river was to remain forever free, as a common highway of the citizens of the United States, without any tax, duty, impost or toll therefor.

A Convention, called under these conditions, met at the appointed time and place, and on the 22d of January, agreed upon a Constitution, and on the 28th upon an Ordinance consenting to the terms imposed by Congress relating to the public lands. The Constitution having been submitted to the people and approved, the State was admitted into the Union by an act passed April 8, 1812, which took effect upon the 30th of that month.

In the discussions which arose in Congress, upon the erection of Orleans Territory as a State, it was noticed that the Constitution of the United States had not provided for the admission of States formed out of acquired territory, and a member from Massachusetts, who opposed the measure, expressed his deliberate opinion, that such a disregard of the fundamental law would be a virtual dissolution of the Union; releasing the States that composed it from obligation of adhesion to each other, and making it the right of all, as it would be the duty of some, to prepare for a definite separation—amicably if they might, forcibly if they must. The right of secession was thus announced in Congress fifty years before the experiment was actually attempted. It shocked the patriotism of southern members, and was ruled out of order, but was further explained as having been uttered “not for agitation, but as a warning; not from hostility to the Union, but from an earnest desire to preserve it.”

By the enabling and admitting acts of Congress, and the Preamble of the Constitution itself, the boundaries of the State east of the Mississippi, included only that part south of the Iberville and Amite rivers, and the lakes Maurepas and Ponchartrain. These limits were enlarged to include all south of 31° north latitude, and west of the Pearl river, by an Act of Congress passed April 14, 1812, and accepted by the State of Louisiana.

The first Constitution of this State was, in arrangement, phraseology and provisions, much like that of Kentucky of 1799, which appears to have been used as the model.

The legislative power was vested in a Senate and House of Representatives, who held an annual session at the seat of Government. Senators were chosen for four years, one-half biennially, and Representatives for two years. Their districts were to be equalized in 1813, and once in four years afterward by a census of electors. The Governor held for four years, and, with the advice and consent of the Senate, appointed Judges, Sheriffs, and all other officers not otherwise provided for. The judicial power was vested in a Supreme Court, holding sessions in districts, and at the seat of Government, and in such inferior courts as might be established by law. The Judges of the Supreme Court held their offices during good behavior, but might be removed on the address of three-fourths of each House of the General Assembly, an opportunity for a hearing and defense being first allowed.

The only mode of revision of the Constitution provided was by Convention, and the question of calling a Convention, was left to the decision of the people at two annual elections. The proposed amendments were also to be enumerated in the acts submitting the question to the people as to whether a Convention was to be called. Laws were accordingly passed, January 30, 1841, and February 25, 1842, for ascertaining whether a Convention was desired; an election was ordered by an act approved January 26, 1843, and a Convention assembled at Jackson, August 5, 1844. It adjourned August 24, 1844, to New Orleans, where

it assembled January 14, 1845, and, on the 16th of May, agreed upon an amended Constitution, which was ratified at an election held November 5th of that year.

Under this Constitution the sessions of the General Assembly were made biennial, and the equalization of representation was based upon a census of electors, to be taken in 1847 and 1855, and decennially afterward.

The Supreme Court consisted of a Chief Justice and three Associate Judges, appointed for eight years, in classes, so that a vacancy occurred once in two years. Their appointment still remained with the Governor and Senate, but the Legislature was empowered to provide otherwise.

District Courts were created, the Judges being appointed for six years.

Amendments might be made at two successive sessions of the General Assembly, and be ratified by the people at an election; the amendments, if more than one, being submitted separately.

A Constitutional Convention was again called in 1852, which met at Baton Rouge on the 5th of July, and, on the 31st of that month, agreed upon a new Constitution, which was ratified at the November election following.

Among the more important changes, made at this time, was the creation of a Board of Public Works, and the establishment of an elective judiciary. The term of Representatives was continued at two years, but their sessions were again made annual. Representation was based upon a census of the whole population, to be taken in 1853, 1858, 1865, and decennially afterward. Certain restrictions upon the creation of the public debt were removed, and more ample provision was made for the maintenance of public schools.

On the 11th of December, 1860, the General Assembly called a Convention to meet on the 23d of that month, and on the 25th, this Convention passed an Ordinance of Secession by a vote of 113 to 17, but refused, by a vote of 84 to 45, to submit the question to the people for their decision. On the 21st of March, this Convention accepted the "Confederate Constitution" without submitting it to the people, and on the 27th it adjourned, after making certain changes in the State Constitution. The property of the United States — including bullion in the mint, and money in the custom-house, at New Orleans — was seized by the State government, with the approbation of the Convention. The funds thus obtained were transferred to the "Confederate" government. A State government, in sympathy with the rebellion, continued nominally in existence until the close of the war.

On the 6th of April, 1864, a Convention, called in pursuance of a proclamation of Governor Hahn, under the auspices of General Banks, commanding the United States forces in the Department of the Gulf, assembled at New Orleans, to form a new Constitution. Having completed this labor on the 23d of July, they adjourned on the 25th, subject to the call of the President. It was approved at an election in September, 1864, by a vote of 6,836 to 1,566, and an election of State officers was held. Restrictions upon commercial intercourse, in the part east of the Mississippi, were removed by President Johnson on the 29th of April, 1865, and, in the remainder of the State, on the 22d of May of the same year.

The government instituted in Louisiana in 1864 was not recognized by Congress, and, under the reconstruction measures adopted in 1867, this State was included in the Fifth Military District. A registration of voters took place, in which 45,199 white, and 84,431 colored, voters were registered; and, at an election on the question of a Convention, 75,083 votes were cast for, and 4,006 against, the measure. A Convention met early in December, 1867; and, on the 7th of March, 1868, it adopted the Constitution given in our text, which was ratified at an election by a vote of 46,737 to 34,076.

The State was admitted to representation in Congress, by an act passed on the 25th of June, 1868, upon condition of her ratification of the Fourteenth Article of amendment to the Constitution of the United States, which occurred on the 9th of July, 1868; and, on the 13th of July, the government was turned over by the military to the civil authorities.

CONSTITUTION OF LOUISIANA, 1868.

SUMMARY.

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- VIII. Militia.
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PREAMBLE.

We, the people of Louisiana, in order to establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution.

TITLE I.

BILL OF RIGHTS.

ARTICLE 1. All men are created free and equal, and have certain inalienable rights; among these are life, liberty and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

ART. 2. All persons, without regard to race, color, or previous condition, born or naturalized in the United States, and subject to the jurisdiction thereof, and residents of this State for one year, are citizens of this State. The citizens of this State owe allegiance to the United States; and this allegiance is paramount to that which they owe to the State. They shall enjoy the same civil, political, and public rights and privileges, and be subject to the same pains and penalties.

ART. 3. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

ART. 4. The press shall be free; every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of this liberty.

ART. 5. The right of the people peaceably to assemble and petition the Government or any Department thereof, shall never be abridged.

ART. 6. Prosecutions shall be by indictment or information. The accused shall be entitled to a speedy public trial by an impartial jury of the parish in which the offense was committed, unless the venue be changed. He shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor. He shall not be tried twice for the same offense.

ART. 7. All persons shall be bailable by sufficient securities, unless for capital offenses, where the proof is evident or the presumption great, or unless, after conviction, for any crime or offense punishable with death or imprisonment at hard labor. The privilege of the writ of *habeas corpus* shall not be suspended.

ART. 8. Excessive bail shall not be required; excessive fines shall not be imposed; nor cruel nor unusual punishments inflicted.

ART. 9. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, or the person or things to be seized.

ART. 10. All courts shall be open; and every person for injury done him in his land, goods, person, or reputation, shall have adequate remedy, by due process of law, and justice administered without denial or unreasonable delay.

ART. 11. No law shall be passed fixing the price of manual labor.

ART. 12. Every person has the natural right to worship God according to the dictates of his conscience. No religious test shall be required as a qualification for office.

ART. 13. All persons shall enjoy equal rights and privileges upon any conveyance of a public character; and all places of business, or of public resort, or for which a license is required by either State, parish, or municipal authority shall be deemed places of a public character, and shall be opened to the accommodation and patronage of all persons, without distinction or discrimination on account of race or color.¹

ART. 14. The rights enumerated in this title, shall not be construed to limit or abridge other rights of the people not herein expressed.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 15. The Legislative power of the State shall be vested in two distinct branches: the one to be styled the House of Representatives, the other the Senate; and both, the General Assembly of the State of Louisiana.

ART. 16. The members of the House of Representatives shall continue in office for two years from the day of the closing of the general elections.

ART. 17. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The General Assembly shall meet annually on the first Monday in January, unless a different day be appointed by law; and their sessions shall be held at the seat of government.

ART. 18. Every elector under this Constitution shall be eligible to a seat in the House of Representatives; and every elector who has reached the age of twenty-five years shall be eligible to the Senate: *Provided*, That no person shall be a Representative or Senator, unless

¹ An act was passed February 23, 1869, to give effect to this article.

at the time of his election he be a qualified elector of the Representative or Senatorial District from which he is elected.

ART. 19. Elections for members of the General Assembly shall be held at the several election precincts established by law.

ART. 20. Representation in the House of Representatives shall be equal and uniform; and, after the first General Assembly elected under this Constitution, shall be ascertained and regulated by the total population, each parish in the State being entitled to at least one Representative. A census of the State by State authority shall be taken in the year eighteen hundred and seventy-five, and every ten years thereafter. In case of informality, omission, or error in the census returns from any parish or election district, the General Assembly may order a new census taken in such parish or election district; but until the State census of eighteen hundred and and seventy-five, the apportionment of the State shall be made on the basis of the census of the United States for the year eighteen hundred and seventy.

ART. 21. The General Assembly at the first session after the making of each enumeration shall apportion the representation amongst the several parishes and Representative Districts, on the basis of the total population, as aforesaid. A Representative number shall be fixed, and each parish and Representative District shall have as many Representatives as the number of its total population will entitle it to have; and an additional Representative for any fraction exceeding one-half of the Representative number. The number of Representatives shall never exceed one hundred and twenty, nor be less than ninety.

ART. 22. Until an apportionment shall be made in accordance with the provisions of article twenty, the representation in the Senate and House of Representatives shall be as follows:

For the parish of Orleans:

First Representative District,.....	2	Bienville, ...	1
Second do	3	Bossier, ...	2
Third do	4	Caddo, ...	3
Fourth do	2	Calcasieu, ...	1
Fifth do	2	Caldwell, ...	1
Sixth do	1	Carroll, ...	2
Seventh do	2	Catahoula, ...	1
Eighth do	1	Claiborne, ...	2
Ninth do	2	Concordia, ...	2
Tenth do	3	De Soto, ...	2
Orleans, right bank.....	1	Feliciana, east, ...	2
Ascension, ...	2	Feliciana, west, ...	1
Assumption, ...	2	Franklin, ...	1
Avoyelles, ...	2	Iberville, ...	2
Baton Rouge, east, ...	3	Jackson, ...	1
Baton Rouge, west, ...	1	Jefferson, ...	4

Lafayette, ...	1	St. James, ...	2
Lafourche, ...	2	St. John Baptist, ...	1
Livingston, ...	1	St. Landry, ...	4
Madison, ...	1	St. Martin, ...	2
Morehouse, ...	1	St. Mary, ...	2
Natchitoches, ...	2	St. Tammany, ...	1
Ouachita, ...	2	Tensas, ...	2
Plaquemines, ...	1	Terrebonne, ...	2
Pointe Coupee, ...	2	Union, ...	1
Rapides, ...	3	Vermillion, ...	1
Sabine, ...	1	Washington, ...	1
St. Bernard, ...	1	Winn, ...	1
St. Charles, ...	1		
St. Helena, ...	1	Total, ...	101

And the State shall be divided into the following Senatorial Districts, to wit:

The first, second, and third Representative Districts of New Orleans shall form one Senatorial District, and elect three Senators.

The fourth, fifth, and sixth Representative Districts of New Orleans shall form one District, and elect two Senators.

The seventh, eighth, and ninth Representative Districts of New Orleans and the parish of St. Bernard shall form one District, and elect two Senators.

The tenth Representative District of New Orleans shall form one District, and elect one Senator.

Orleans, right bank, and the parish of Plaquemines shall form one District, and elect one Senator.

The parishes of Jefferson, St. Charles, and St. John Baptist shall form one District, and elect two Senators.

The parishes of Ascension and St. James shall form one District, and elect one Senator.

The parishes of Assumption, Lafourche, and Terrebonne shall form one District, and elect two Senators.

The parishes of Vermillion and St. Mary shall form one District, and elect one Senator.

The parishes of Calcasieu, Lafayette, and St. Landry shall form one District, and elect two Senators.

The parishes of Livingston, St. Helena, Washington, and St. Tammany shall form one District, and elect one Senator.

The parishes of Pointe Coupée, East Feliciana, and West Feliciana shall form one District, and elect two Senators.

The parish of East Baton Rouge shall form one District, and elect one Senator.

The parishes of West Baton Rouge, Iberville, and St. Martin shall form one District, and elect two Senators.

The parishes of Concordia and Avoyelles shall form one District, and elect one Senator.

The parishes of Tensas and Franklin shall form one District, and elect one Senator.

The parishes of Carroll, Madison, and Morehouse shall form one District, and elect two Senators.

The parishes of Ouachita and Caldwell shall form one District, and elect one Senator.

The parishes of Jackson and Union shall form one District, and elect one Senator.

The parishes of Bossier, Bienville, and Claiborne shall form one District, and elect two Senators.

The parish of Caddo shall form one District, and elect one Senator.

The parishes of De Soto, Natchitoches, and Sabine shall form one District, and elect two Senators.

The parish of Rapides shall form one District, and elect one Senator.

The parishes of Catahoula and Winn shall form one District, and elect one Senator.

Thirty-six Senators in all.

ART. 23. The House of Representatives shall choose its Speaker and other officers.

ART. 24. Electors in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during their attendance on, going to, and returning from, elections.

ART. 25. At its first session under this Constitution, the General Assembly shall provide by law that the names and residence of all qualified electors shall be registered, in order to entitle them to vote; but the registry shall be free of cost to the elector.

ART. 26. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and at the election precinct in which he is registered: *Provided*, That no voter, in removing from one parish to another, shall lose the right in the former, until he has acquired it in the latter.

ART. 27. The members of the Senate shall be elected for the term of four years; and, when assembled, the Senate shall have the power to choose its own officers, except as hereinafter provided.

ART. 28. The General Assembly shall divide the State into Senatorial Districts whenever it apportions representation in the House of Representatives.

ART. 29. No parish shall be divided in the formation of a Senatorial District, the parish of Orleans excepted; and, whenever a new parish shall be created, it shall be attached to the Senatorial District from

which most of its territory is taken, or to another contiguous District, at the discretion of the General Assembly; but shall not be attached to more than one District. The number of Senators shall be thirty-six, and they shall be apportioned among the Senatorial Districts according to the total population of said Districts.

ART. 30. In all apportionments of the Senate, the total population of the State shall be divided by the number thirty-six, and the result produced by this division shall be the Senatorial ratio entitling a Senatorial District to a Senator.

Single or contiguous parishes shall be formed into Districts having a population the nearest possible to the number entitling a District to a Senator; and if the apportionment to make a parish or District fall short of, or exceed, the ratio, then a District may be formed having not more than two Senators; but not otherwise. No new apportionment shall have the effect of abridging the term of service of any Senator already elected at the time of making the apportionment. After an enumeration has been made, as directed in the 20th article, the General Assembly shall not pass any law till an apportionment of representation in both Houses of the General Assembly be made.

ART. 31. At the first session of the General Assembly, after this Constitution goes into effect, the Senators shall be divided equally by lot into two classes; the seats of the Senators of the first class to be vacated at the expiration of the term of the first House of Representatives; those of the second class at the expiration of the term of the second House of Representatives, so that one-half shall be chosen every two years successively. When a District shall have elected two Senators, their respective terms of office shall be determined by lot between themselves.

ART. 32. The first election for Senators shall be held at the same time with the election for Representatives; and thereafter there shall be elections of Senators at the same time with each general election of Representatives, to fill the places of those Senators whose term of office may have expired.

ART. 33. Not less than a majority of the members of each House of the General Assembly shall form a quorum to transact business; but a smaller number may adjourn from day to day, and shall have full power to compel the attendance of absent members.

ART. 34. Each House of the General Assembly shall judge of the qualifications, elections and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law.

ART. 35. Each House of the General Assembly may determine the rules of its proceedings, punish a member for disorderly conduct, and,

with a concurrence of two-thirds, expel a member; but not a second time for the same offense.

ART. 36. Each House of the General Assembly shall keep, and publish weekly, a journal of its proceedings; and the yeas and nays of the members on any question, at the desire of any two of them, shall be entered on the journal.

ART. 37. Each House may punish by imprisonment any person not a member, for disrespect and disorderly behavior in its presence, or for obstructing any of its proceedings; such imprisonment shall not exceed ten days for any one offense.

ART. 38. Neither House shall adjourn for more than three days, nor to any other place than that in which it may be sitting, during the session of the General Assembly, without the consent of the other.

ART. 39. The members of the General Assembly shall receive from the public treasury a compensation for their services, which shall be eight dollars per day during their attendance, going to and returning from the sessions of their respective Houses. This compensation may be increased or diminished by law, but no alteration shall take effect during the period of service of the members of the House of Representatives by which such alterations shall have been made. No session shall extend beyond the period of sixty days, to date from its commencement, and any legislative action had after the expiration of said period of sixty days shall be null and void; but the first General Assembly that shall convene after the adoption of this Constitution, may continue in session for one hundred and twenty days.

ART. 40. The members of the General Assembly, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during their attendance at the sessions of their respective Houses, and going to or returning from the same; and for any speech or debate in either House shall not be questioned in any other place.

ART. 41. No Senator or Representative, during the term for which he was elected, nor for one year thereafter, shall be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which may have been increased, during the time such Senator or Representative was in office.

ART. 42. No bill shall have the force of a law until on three several days it be read in each House of the General Assembly, and free discussion allowed thereon, unless four-fifths of the House where the bill is pending may deem it expedient to dispense with this rule.

ART. 43. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose amendments, as in other bills: *Provided*, It shall not introduce any matter under the color of an amendment which does not relate to raising revenue.

ART. 44. The General Assembly shall regulate by whom, and in what manner, writs of election shall be issued, to fill the vacancies which may occur in either branch thereof.

ART. 45. On the confirmation or rejection of the officers to be appointed by the Governor, with the advice and consent of the Senate, the vote shall be taken by yeas and nays, and the names of the Senators voting for and against the appointments respectively shall be entered on the journals to be kept for the purpose, and made public on or before the end of each session.

ART. 46. Returns of all election for members of the General Assembly shall be made to the Secretary of State.

ART. 47. In the year in which a regular election for a Senator of the United States is to take place, the members of the General Assembly shall meet in the hall of the House of Representatives, on the second Monday following the meeting of the General Assembly, and proceed to said election.

TITLE III.

EXECUTIVE DEPARTMENTS.

ARTICLE 48. The Supreme Executive power of the State shall be vested in a chief magistrate, who shall be styled the Governor of the State of Louisiana. He shall hold his office during the term of four years, and, together with the Lieutenant-Governor, chosen for the same term, be elected as follows: The qualified electors for Representatives shall vote for Governor and Lieutenant-Governor at the time and place of voting for Representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the Secretary of State, who shall deliver them to the Speaker of the House of Representatives on the second day of the session of the General Assembly then to be holden. The members of the General Assembly shall meet in the House of Representatives to examine and count the votes. The person having the greatest number of votes for Governor shall be declared duly elected; but in case of a tie vote between two or more candidates, one of them shall immediately be chosen Governor by joint vote of the members of the General Assembly. The person having the greatest number of votes polled for Lieutenant-Governor shall be Lieutenant-Governor; but in case of a tie vote between two or more candidates, one of them shall be immediately chosen Lieutenant-Governor by joint vote of the members of the General Assembly.

ART. 49. No person shall be eligible to the office of Governor or Lieutenant-Governor who is not a citizen of the United States, and a resident of this State two years next preceding his election.

[ART. 50.¹ The Governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.]

ART. 51. The Governor shall enter on the discharge of his duties on the second Monday in January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation required by the Constitution.

ART. 52. No member of Congress, or any person holding office under the United States government, shall be eligible to the office of Governor or Lieutenant-Governor.

ART. 53. In case of impeachment of the Governor, his removal from office, death, refusal or inability to qualify, or to discharge the powers and duties of his office, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the Governor, absent or impeached, shall return or be acquitted, or the disability be removed. The General Assembly may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the Governor and the Lieutenant-Governor, declaring what officer shall act as Governor; and such officer shall act accordingly, until the disability be removed, or for the remainder of the term.

ART. 54. The Lieutenant-Governor, or officer discharging the duties of Governor, shall, during his administration, receive the same compensation to which the Governor would have been entitled had he continued in office.

ART. 55. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, but shall only vote when the Senate is equally divided. Whenever he shall administer the government, or shall be unable to attend as President of the Senate, the Senators shall elect one of their own members as President of the Senate for the time being.

ART. 56. The Governor shall receive a salary of eight thousand dollars per annum, payable quarterly on his own warrant.

ART. 57. The Lieutenant-Governor shall receive a salary of three thousand dollars per annum, payable quarterly upon his own warrant.

ART. 58. The Governor shall have power to grant reprieves for all offenses against the State; and, except in cases of impeachment, shall, with the consent of the Senate, have power to grant pardons, [and] remit fines and forfeitures, after conviction. In cases of treason, he may grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested. In cases when the punishment is not imprisonment at hard labor, the party

¹ Abrogated in 1870, by a vote of 64,476 to 41,017.

upon being reprieved by the Governor shall be released, if in actual custody, until final action by the Senate.

ART. 59. He shall be Commander-in-Chief of the Militia of this State, except when they shall be called into the service of the United States.

ART. 60. He shall nominate, and by and with the advice and consent of the Senate, appoint, all officers whose offices are established by the Constitution, and whose appointments are not herein otherwise provided for: *Provided, however,* That the General Assembly shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 61. The Governor shall have power to fill vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of the next session thereof, unless otherwise provided for in this Constitution; but no person who has been nominated for office and rejected by the Senate, shall be appointed to the same office during the recess of the Senate.

ART. 62. He may require information in writing from the officers in the Executive Department, upon any subject relating to the duties of their respective offices.

ART. 63. He shall, from time to time, give the General Assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 64. He may, on extraordinary occasions, convene the General Assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from epidemic; and, in case of disagreement between the two Houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 65. He shall take care that the laws be faithfully executed.

ART. 66. Every bill which shall have passed both Houses, shall be presented to the Governor; if he approve, he shall sign it; if he do not, he shall return it with his objections, to the House in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present in that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present in that House, it shall be a law. But in such cases the vote of both Houses shall be determined by yeas and nays, and the names of members voting for or against the bill shall be entered on the journal of each House, respectively. If any bill shall not be returned by the Governor within five days after it shall have been pre-

sented to him, it shall be a law in like manner as if he had signed it; unless the General Assembly, by adjournment, prevent its return; in which case the said bill shall be returned on the first day of the meeting of the General Assembly after the expiration of said five days, or be a law.

ART. 67. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary, except on a question of adjournment, shall be presented to the Governor; and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by two-thirds of the members present.

ART. 68. There shall be a Secretary of State, who shall hold his office during the term for which the Governor shall have been elected. The records of the State shall be kept and preserved in the office of the Secretary; he shall keep a fair register of the official acts and proceedings of the Governor, and when necessary shall attest them; he shall, when required, lay the said register, and all papers, minutes, and vouchers, relative to his office, before either House of the General Assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 69. There shall be a Treasurer of the State, and an Auditor of Public Accounts, who shall hold their respective offices during the term of four years. At the first election under this Constitution, the Treasurer shall be elected for two years.

ART. 70. The Secretary of State, Treasurer, and Auditor of Public Accounts, shall be elected by the qualified electors of the State; and, in case of any vacancy caused by the resignation, death, or absence of the Secretary, Treasurer, or Auditor, the Governor shall order an election to fill said vacancies: *Provided*, The unexpired term to be filled be more than twelve months. When otherwise, the Governor shall appoint a person to perform the duties of the office thus vacant until the ensuing general election.

ART. 71. The Treasurer and the Auditor shall receive a salary of five thousand dollars per annum each. The Secretary of State shall receive a salary of three thousand dollars per annum.

ART. 72. All commissions shall be in the name, and by the authority of, the State of Louisiana; and shall be sealed with the State seal, signed by the Governor, and countersigned by the Secretary of State.

TITLE IV.

JUDICIARY DEPARTMENT.

ARTICLE 73. The judicial power shall be vested in a Supreme Court, in District Courts, in Parish Courts, and in Justices of the Peace.

ART. 74. The Supreme Court, except in cases hereinafter provided.

shall have appellate jurisdiction only; which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars; and to all cases in which the constitutionality or legality of any tax, toll, or impost of any kind or nature whatsoever, or any fine, forfeiture, or penalty imposed by a municipal corporation shall be in contestation, whatever may be the amount thereof; and in such cases the appeal shall be direct from the court in which the case originated to the Supreme Court; and in criminal cases, on questions of law only, whenever the punishment of death, or imprisonment at hard labor, or a fine exceeding three hundred dollars, is actually imposed.

ART. 75. The Supreme Court shall be composed of one Chief Justice and four Associate Justices, a majority of whom shall constitute a quorum. The Chief Justice shall receive a salary of \$7,500, and each of the Associate Justices a salary of \$7,000 annually, payable quarterly on their own warrants. The Chief Justice and the Associate Justices shall be appointed by the Governor, with the advice and consent of the Senate, for the term of eight years. They shall be citizens of the United States, and shall have practiced law for five years, the last three thereof, next preceding their appointment, in the State. The court shall appoint its own clerks, and may remove them at pleasure.

ART. 76. The Supreme Court shall hold its sessions in the city of New Orleans, from the first Monday in the month of November, to the end of the month of May. The General Assembly shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 77. The Supreme Court, and each of the Judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of persons in actual custody, in cases when they may have appellate jurisdiction.

ART. 78. No judgment shall be rendered by the Supreme Court without a concurrence of a majority composing the court. Whenever the majority cannot concur, in consequence of the recusation of any member of the court, the Judges not recused shall have power to call upon any Judge or Judges of the District Courts, whose duty it shall be, when so called upon, to preside in the place of the Judge or Judges recused, and to aid in determining the case.

ART. 79. All Judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be: "The State of Louisiana." All prosecutions shall be carried on in the name, and by the authority of the State of Louisiana, and conclude, "Against the peace and dignity of the same."

ART. 80. The Judges of all courts, whenever practicable, shall refer to the law, in virtue of which every definite judgment is rendered;

but in all cases they shall adduce the reasons on which their judgment is founded.

ART. 81. The Judges of all courts shall be liable to impeachment for crimes and misdemeanors. For any reasonable cause the Governor shall remove any of them, on the address of two-thirds of the members elected to each House of the General Assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each House.

ART. 82. No duties or functions shall ever be attached by law to the Supreme or District Courts, or the several Judges thereof, but such as are judicial; and the said Judges are prohibited from receiving any fees of office, or other compensation than their salaries, for any official duties performed by them.

ART. 83. The General Assembly shall divide the State into Judicial Districts, which shall remain unchanged for four years, and for each District Court one Judge, learned in the law, shall be elected for each District, by a plurality of the qualified electors thereof. For each District there shall be one District Court, except in the parish of Orleans, in which the General Assembly may establish as many District Courts as the public interests may require. Until otherwise provided, there shall be seven Districts Courts for the parish of Orleans, with the following original jurisdiction: the first, exclusive criminal jurisdiction; the second, exclusive probate jurisdiction; the third, exclusive jurisdiction of appeals from Justices of the Peace; the fourth, fifth, sixth and seventh District Courts, exclusive jurisdiction in all civil cases, except probate, when the sum in contest is above \$100, exclusive of interest. These seven courts shall also have such further jurisdiction, not inconsistent herewith, as shall be conferred by law. The number of Districts in the State shall not be less than twelve nor more than twenty. The Clerks of the District Courts shall be elected by the qualified electors of their respective parishes, and shall hold their office for four years.

ART. 84. Each of said Judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than \$5,000. He must be a citizen of the United States, over the age of twenty-five years, and have resided in the State, and practiced law therein, for the space of two years next preceding his election. The Judges of the District Courts shall hold their office for the term of four years.

ART. 85. The District Courts shall have original jurisdiction in all civil cases, when the amount in dispute exceeds \$500, exclusive of interest. In criminal cases, their jurisdiction shall be unlimited.

They shall have appellate jurisdiction in ordinary civil suits when the amount in dispute exceeds \$100, exclusive of interest.

ART. 86. For each Parish Court, one Judge shall be elected by the qualified electors of the parish. He shall hold his office for the term of two years. He shall receive a salary and fees to be provided by law. Until otherwise provided, each Parish Judge shall receive a salary of \$1,200 per annum, and such fees as are established by law for Clerks of District Courts. He shall be a citizen of the United States and of this State.

ART. 87. The Parish Courts shall have concurrent jurisdiction with the Justices of the Peace in all cases when the amount in controversy is more than twenty-five dollars, and less than \$100, exclusive of interest. They shall have exclusive original jurisdiction in ordinary suits, in all cases when the amount in dispute exceeds \$100, and does not exceed \$500, subject to an appeal to the District Court in all cases when the amount in contestation exceeds \$100, exclusive of interest. All successions shall be opened and settled in the Parish Courts; and all suits in which a succession is either plaintiff or defendant, may be brought either in the Parish or District Court, according to the amount involved. In criminal matters, the Parish Courts shall have jurisdiction in all cases when the penalty is not necessarily imprisonment at hard labor or death, and when the accused shall waive trial by jury. They shall also have the power of committing magistrates, and such other jurisdiction as may be conferred on them by law. There shall be no trial by jury before the Parish Courts.

ART. 88. In all probate matters, when the amount in dispute shall exceed \$500, exclusive of interest, the appeal shall be directly from the Parish to the Supreme Court.

ART. 89. The Justices of the Peace shall be elected by the electors of each parish, in the manner to be provided by the General Assembly. They shall hold office for the term of two years, and their compensation shall be fixed by law. Their jurisdiction in civil cases shall not exceed \$100, exclusive of interest, subject to an appeal to the Parish Court in all cases when the amount in dispute shall exceed ten dollars, exclusive of interest. They shall have such criminal jurisdiction as shall be provided for by law.

ART. 90. In any case when the Judge may be recused, and when he is not personally interested in the matters in contestation, he shall select a lawyer, having the qualifications required for a judge of his court, to try such cases. And when the Judge is personally interested in the suit, he shall call upon the Parish or District Judge, as the case may be, to try the case.

ART. 91. The General Assembly shall have power to vest in the

Parish Judges the right to grant such orders, and to do such acts, as may be deemed necessary for the furtherance of the administration of justice; and in all cases the power thus granted shall be specified and determined.

ART. 92. There shall be an Attorney-General for the State, who shall be elected by the qualified electors of the State at large. He shall receive a salary of \$5,000 per annum, payable quarterly on his own warrant, and shall hold his office for four years. There shall be a District Attorney for each Judicial District of the State, who shall be elected by the qualified electors of the Judicial District. He shall receive a salary of \$1,500, payable quarterly on his own warrant, and shall hold his office for four years.

ART. 93. There shall be a Sheriff and Coroner elected by the qualified electors of each parish, except the parish of Orleans. In the parish of Orleans there shall be elected, by the qualified electors of the parish at large, one Sheriff for the Criminal Court, who shall be the executive officer of said Court, and shall have charge of the parish prison. There shall also be elected by the qualified electors of the parish at large, one Sheriff who shall be the executive officer of the Civil Courts, and who shall perform all other duties heretofore devolving upon the Sheriff of the parish of Orleans, except those herein delegated to the Sheriff of the Criminal Court. The qualified electors of the City of New Orleans, residing below the middle of Canal street, shall elect one Coroner for that district, and the qualified electors of the City of New Orleans residing above the middle of Canal street, together with those residing in that part of the parish known as Orleans Right Bank, shall elect one Coroner for that district. All of said officers shall hold their offices for two years, and receive such fees of office as may be prescribed by law.

ART. 94. No judicial powers, except as committing magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title; except such as may be necessary in towns and cities; and the judicial powers of such officers shall not extend further than the cognizance of such cases arising under the police regulations of towns and cities in the State. In any case where such officers shall assume jurisdiction over other matters than those which may arise under police regulations, or under their jurisdiction as committing magistrates, they shall be liable to an action of damages in favor of the party injured, or his heirs; and a verdict in favor of the party injured shall, *ipse facto*, operate as a vacation of the office of said officer.

TITLE V.

IMPEACHMENT.

ARTICLE 95. The power of impeachment shall be vested in the House of Representatives.

ART. 96. Impeachments of the Governor, Lieutenant-Governor, Attorney-General, Secretary of State,¹ Auditor of Public Accounts, State Treasurer, Superintendent of Public Education, and of the Judges of the inferior courts, Justices of the Peace excepted, shall be tried by the Senate; the Chief Justice of the Supreme Court, or the senior Associate Judge thereof, shall preside during the trial of such impeachments. Impeachments of the Judges of the Supreme Court shall be tried by the Senate. When sitting as a Court of Impeachment, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Senators present.

ART. 97. Judgments, in cases of impeachment, shall extend only to removal from office, and disqualification from holding any office of honor, trust or profit in the State; but the convicted parties shall, nevertheless, be subject to indictment, trial and punishment according to law.

TITLE VI.

GENERAL PROVISIONS.

ARTICLE 98. Every male person, of the age of twenty-one years or upward, born or naturalized in the United States, and subject to the jurisdiction thereof, and a resident of this State one year next preceding an election, and the last ten days within the parish in which he offers to vote, shall be deemed an elector, except those disfranchised by this Constitution, and persons under interdiction.

[ART. 99.¹ The following persons shall be prohibited from voting and holding any office: All persons who shall have been convicted of treason, perjury, forgery, bribery, or other crime punishable in the penitentiary, and persons under interdiction. All persons who are estopped from claiming the right of suffrage, by abjuring their allegiance to the United States government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the following: Those who held office, civil or military, for one year or more, under the organization styled "the Confederate States of America;" those who registered

¹ This article has been stricken out and another substituted. See page 504.

themselves as enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles, or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate, setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the Secretary of State, and it shall be published in the official journal: *Provided*, That no person who, prior to the first of January, 1868, favored the execution of the laws of the United States, popularly known as the reconstruction acts of Congress, and openly and actively assisted the loyal men of the State in their efforts to restore Louisiana to her position in the Union, shall be held to be included among those herein excepted. Registrars of voters shall take the oath of any such person as *prima facie* evidence of the fact that he is entitled to the benefit of this proviso.]

ART. 100. Members of the General Assembly and all other officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I (A. B.), do solemnly swear (or affirm) that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; that I will support the Constitution and laws of the United States, and the Constitution and laws of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my ability and understanding: so help me God."

ART. 101. Treason against the State shall consist only in levying war against it or in adhering to its enemies — giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court.

ART. 102. All penalties shall be proportioned to the nature of the offense.

ART. 103. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

ART. 104. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law. A statement and

account of receipts and expenditures of all public moneys shall be made annually in such manner as shall be prescribed by law; and the first General Assembly convening under this Constitution shall make a special appropriation to liquidate whatever portion of the debt of this Convention may, at that time, remain unpaid or unprovided for.

ART. 105. All civil officers of the State at large shall be voters of, and reside within, the State; and all district or parish officers shall reside within their respective districts or parishes, and shall keep their offices at such places therein as may be required by law.

ART. 106. All civil officers shall be removable by an address of two-thirds of the members elect to each House of the General Assembly, except those whose removal is otherwise provided for by this Constitution.

ART. 107. In all elections by the people, the vote shall be taken by ballot; and in all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 108. None but citizens of the United States and of this State shall be appointed to any office of trust, or profit in this State.

ART. 109. The laws, public records, and the judicial and legislative proceedings of the State shall be promulgated and preserved in the English language; and no law shall require judicial process to be issued in any other than the English language.

ART. 110. No *ex post facto* or retroactive law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested, unless for purposes of public utility and for adequate compensation made.

ART. 111. Whenever the General Assembly shall contract a debt exceeding in amount the sum of \$100,000, unless, in case of war, to repel invasion or suppress insurrection, it shall, in the law creating the debt, provide adequate ways and means for the payment of the current interest and of the principal when the same shall become due; and the said law shall be irrevocable until principal and interest be fully paid; or unless the repealing law contain some adequate provision for the payment of the principal and interest of the debt.

ART. 112. The General Assembly shall provide by law for all change of venue in civil and criminal cases.

ART. 113. The General Assembly may enact general laws regulating the adoption of children, emancipation of minors, and the granting of divorces; but no special law shall be passed relating to particular or individual cases.

ART. 114. Every law shall express its object or objects in its title.

ART. 115. No law shall be revived or amended by reference to its

title; but in such case the revived or amended section shall be re-enacted and published at length.

ART. 116. The General Assembly shall never adopt any system or code of laws by general reference to such system or code of laws; but, in all cases, shall specify the several provisions of the law it may enact.

ART. 117. No person shall hold or exercise at the same time more than one office of trust or profit, except that of Justice of the Peace or Notary Public.

ART. 118. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The General Assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes. The General Assembly may levy an income tax upon all persons pursuing any occupation, trade, or calling. And all such persons shall obtain a license as provided by law. All tax on income shall be *pro rata* on the amount of income or business done. And all deeds of sale made or that may be made by collectors of taxes shall be received by courts in evidence as *prima facie* valid sales. The General Assembly shall levy a poll tax on all male inhabitants of this State, over twenty-one years old, for school and charitable purposes, which tax shall never exceed one dollar and fifty cents per annum.

ART. 119. No liability, either State, parochial, or municipal, shall exist for any debts contracted for or in the interest of the rebellion against the United States Government.

ART. 120. The General Assembly may determine the mode of filling vacancies in all offices for which provision is not made in this Constitution.

ART. 121. The General Assembly shall pass no law requiring a property qualification for office.

ART. 122. All officers shall continue to discharge the duties of their offices until their successors shall have been inducted into office, except in cases of impeachment or suspension.

ART. 123. The General Assembly shall provide for the protection of the rights of married women to their dotal and paraphernal property, and for the registration of the same;¹ but no mortgage or privilege shall hereafter affect third parties, unless recorded in the parish where the property to be affected is situated. The tacit mortgages and privileges now existing in this State shall cease to have effect against third persons after the 1st day of January, 1870, unless

¹ An act of March 6, 1869, further provides for this.

duly recorded. The General Assembly shall provide by law for the registration of all mortgages and privileges.

ART. 124. The General Assembly, at its first session under this Constitution, shall provide an annual pension for the veterans of 1814 and 1815, residing in the State.

ART. 125. The military shall be in subordination to the civil power.

ART. 126. It shall be the duty of the General Assembly to make it obligatory upon each parish to support all paupers residing within its limits.

ART. 127. All agreements, the consideration of which was Confederate money, notes or bonds, are null and void, and shall not be enforced by the courts of this State.

ART. 128. Contracts for the sale of persons are null and void, and shall not be enforced by the courts of this State.

ART. 129. The State of Louisiana shall never assume nor pay any debt or obligation contracted or incurred in aid of the rebellion; nor shall this State ever, in any manner, claim from the United States, or make any allowance or compensation for slaves emancipated or liberated in any way whatever.

ART. 130. All contracts made and entered into under the pretended authority of any government heretofore existing in this State, by which children were bound out without the knowledge or consent of their parents, are hereby declared null and void; nor shall any child be bound out to any one for any term of years, while either one of its parents live, without the consent of such parent, except in cases of children legally sent to the house of correction.

ART. 131. The seat of government shall be established at the city of New Orleans, and shall not be removed without the consent of two-thirds of the members of both Houses of the General Assembly.

ART. 132. All lands sold in pursuance of decrees of courts shall be divided into tracts of from ten to fifty acres.²

ART. 133. No judicial powers shall be exercised by Clerks of courts.

ART. 134. No soldier, sailor, or marine, in the military or naval service of the United States, shall hereafter acquire a residence in this State by reason of being stationed or doing duty in the same.

TITLE VII.

PUBLIC EDUCATION.

ART. 135. The General Assembly shall establish at least one free public school in every parish throughout the State, and shall provide

² An act of Feb. 24, 1869, gave effect to this section.

for its support by taxation or otherwise. All children of this State between the years of six (6) and twenty-one (21) shall be admitted to the public schools or other institutions of learning sustained or established by the State, in common, without distinction of race, color, or previous condition. There shall be no separate schools or institutions of learning established exclusively for any race by the State of Louisiana.

ART. 136. No municipal corporation shall make any rules or regulations contrary to the spirit and intention of article one hundred and thirty-five (135).

ART. 137. There shall be elected by the qualified voters of this State a Superintendent of Public Education, who shall hold his office for four years. His duties shall be prescribed by law, and he shall have the supervision and the general control of all public schools throughout the State. He shall receive a salary of five thousand dollars per annum, payable quarterly on his own warrant.

ART. 138. The general exercises in the public schools shall be conducted in the English language.

ART. 139. The proceeds of all lands heretofore granted by the United States for the use and support of public schools, and of all lands or other property which may hereafter be bequeathed for that purpose, and of all lands which may be granted or bequeathed to the State, and not granted or bequeathed expressly for any other purpose which may hereafter be disposed of by the State, and the proceeds of all estates of deceased persons to which the State may be entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund on which the State shall pay an annual interest of six per cent, which interest, with the interest of the trust fund deposited with this State by the United States, under the act of Congress approved June the twenty-third, eighteen hundred and thirty-six, and the rent of the unsold land, shall be appropriated to the support of such schools; and this appropriation shall remain inviolable.

ART. 140. No appropriation shall be made by the General Assembly for the support of any private school or any private institution of learning whatever.

ART. 141. One-half of the funds derived from the poll-tax herein provided for shall be appropriated exclusively to the support of the free public schools throughout the State and the University of New Orleans.

ART. 142. A University shall be established and maintained in the city of New Orleans. It shall be composed of a law, a medical, and a collegiate department, each with appropriate faculties. The General Assembly shall provide by law for its organization and maintenance

Provided, That all departments of this institution of learning shall be open in common to all students capable of matriculating. No rules or regulations shall be made by the trustees, faculties, or other officers of said institution of learning, nor shall any laws be made by the General Assembly violating the letter or spirit of the articles under this title.

ART. 143. Institutions for the support of the insane, the education and support of the blind and the deaf and dumb, shall always be fostered by the State, and be subject to such regulations as may be prescribed by the General Assembly.

TITLE VIII.

MILITIA.

ARTICLE 144. It shall be the duty of the General Assembly to organize the militia of the State; and all able-bodied male citizens, between the ages of eighteen and forty-five years, not disfranchised by the laws of the United States, and of this State, shall be subject to military duty.

ART. 145. The Governor shall appoint all commissioned officers, subject to confirmation or rejection by the Senate, except the staff officers, who shall be appointed by their respective chiefs, and commissioned by the Governor. All militia officers shall take and subscribe to the oath prescribed for officers of the United States army, and the oath prescribed for officers in this State.

ART. 146. The Governor shall have power to call the militia into active service for the preservation of law and order, or when the public safety may require it. The militia when in active service shall receive the same pay and allowances, as officers and privates, as is received by officers and privates in the United States army.

TITLE IX.

MODE OF REVISING THE CONSTITUTION.

ARTICLE 147. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by two-thirds of the members elected to each House, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays taken thereon; and the Secretary of State shall cause the same to be published three months before the next general election for Representatives to the General Assembly, in at least one newspaper in every parish of the State in which a newspaper shall be published. And such proposed

amendment or amendments shall be submitted to the people at said election; and if a majority of the voters at said election shall approve and ratify such amendment or amendments, the same shall become a part of this Constitution. If more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

TITLE X.

SCHEDULE.

ARTICLE 148. The ordinance of secession of the State of Louisiana, passed 26th of January, 1861, is hereby declared to be null and void. The Constitution adopted in 1864, and all previous Constitutions in the State of Louisiana, are declared to be superseded by this Constitution.

ART. 149. All rights, actions, prosecutions, claims, contracts, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith, shall continue as if it had not been adopted; all judgments and judicial sales, marriages, and executed contracts made in good faith, and in accordance with existing laws in this State, rendered, made, or entered into, between the 26th day of January, 1861, and the date when this Constitution shall be adopted, are hereby declared to be valid, except the following laws:

“An act to authorize the widening of the new canal and basin.” Approved March 14, 1867.

“An act to amend and re-enact the 121st section of an act entitled ‘An act relative to crimes and offenses.’” Approved December 20, 1865.

“An act for the punishment of persons for tampering with, persuading, or enticing away, harboring, feeding, or secreting laborers, servants, or apprentices.” Approved December 21, 1865.

“An act to punish, in certain cases, the employers of laborers and apprentices.” Approved December 21, 1865.

“An act in relation to exemption from State, parish and city taxes, for the years 1862, 1863, 1864 and 1865, in certain cases.” Certified March 16, 1866.

“An act granting ferry privileges to C. K. Marshall, his heirs or assigns.” Approved March 10, 1866.

“An act to authorize the Board of Levee Commissioners, of the levee district in the parishes of Madison and Carroll, to issue bonds,” etc., etc. Approved March 28, 1867.

Section third of “An act to organize the police of New Orleans, and to create a Police Board therein.” Approved February 12, 1866.

ART. 150. The laws relative to the duties of officers shall remain in force, though contrary to this Constitution, and the several duties be performed by the respective officers, until the organization of the government under this Constitution.

ART. 151. The General Assembly shall provide for the removal of causes now pending in the courts of this State to courts created by or under this Constitution.

TITLE XI.

ORDINANCE.

ARTICLE 152. Immediately upon the adjournment of this Convention this Constitution shall be submitted for ratification to the registered voters of the State, in conformity to the act of Congress passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the acts supplementary thereto.

ART. 153. The election for the ratification of the Constitution shall be held on Friday and Saturday, the 17th and 18th days of April, 1868, at the places now prescribed by law; and the polls shall be kept open from 7 o'clock A. M. to 7 o'clock P. M.. At that election all those in favor of ratifying the Constitution shall have written or printed on their ballots, "For the Constitution;" and those opposed to ratifying the Constitution shall have written or printed on their ballots, "Against the Constitution."

ART. 154. In order to establish a civil government, as required by act of Congress passed March 23, 1867, an election shall be held at the same time and place at which the Constitution is submitted for ratification, for all State, judicial, parish and municipal officers, for members of the General Assembly and for Congressional Representatives, at which election the electors who are qualified under the reconstruction acts of Congress shall vote, and none others: *Provided*, That any elector shall be eligible to any office under any municipal corporation in this State.

ART. 155. At the election for the ratification of the Constitution, and for officers of the civil government, as required by Congress, all registered electors may vote in any parish where they have resided for ten days next preceding said election, and at any precinct in the parish, upon presentation of their certificate of registration, affidavit, or other satisfactory evidence that they are entitled to vote as registered electors.

ART. 156. The same Registrars and Commissioners who shall be appointed by the commanding general of the Fifth Military District, to superintend the election for the ratification or rejection of the Constitution, shall, also, at the same time and place, superintend the elec-

tion for all officers and Representatives herein ordered: *Provided*, They be authorized so to act by the commanding general. And in case the commanding general should not so authorize said Registrars and Commissioners, the Committee of Seven, appointed by this Convention to take charge of the whole matter of the ratification of the Constitution and the election of civil officers, shall appoint one Registrar for each parish in the State, except the parish of Orleans, and one in each district of the parish of Orleans, counting Orleans Right Bank as one district, who shall, each in his parish or district, appoint a sufficient number of Commissioners of Election to hold the said election for said civil officers and Representatives, at the same time and place as herein provided for.

ART. 157. Returns shall be made in duplicate, sworn to by the Commissioners holding the election, and forwarded within three days thereafter to the Registrars of the parish or district. The Registrars shall immediately forward one copy of said returns to the Chairman of the Committee of Seven appointed by this Convention, who shall, within ten days after the last return has been received, make proclamation of the result of said election.

ART. 158. All civil officers thus elected shall enter upon the discharge of their duties on the second Monday after the return of their election shall have been officially promulgated, or as soon as qualified according to law, and shall continue in office for the terms of their respective offices herein prescribed, said terms to date from the first Monday in November following the election.

ART. 159. The General Assembly elected under this Constitution shall hold its first session in the city of New Orleans, on the third Monday after the official promulgation aforesaid, and proceed immediately upon its organization to vote upon the adoption of the Fourteenth Amendment to the Constitution of the United States, proposed by Congress, and passed June 13, 1866; said General Assembly shall not have power to enact any laws relative to the per diem of members, or any other subject, after organization, until said Constitutional Amendment shall have been acted upon.

ART. 160. All Registrars and Commissioners appointed under this Constitution shall, before entering upon their duties, take and subscribe the oath of office prescribed by Congress, approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office;" the said oath of office shall be administered to each Registrar by the Chairman of the Committee of Seven, and to each Commissioner by the Registrar appointing him.

ART. 161. All Registrars, Commissioners, and other officers, necessary to carry into effect the provisions of this ordinance, except as

otherwise provided for by the reconstruction acts of Congress, shall be paid out of any funds raised by virtue of the tax ordinance, adopted by the Convention, December twenty-fourth, eighteen hundred and sixty-seven, not otherwise appropriated.

JAMES G. TALIAFERRO,

President, and Delegate from the Parish of Catahoula.

C. C. Antoine, of Caddo,	Peter Harper,	Joseph C. Oliver,
L. W. Baker, of Bossier,	John S. Harris,	S. B. Packard,
Simeon Belden,	O. H. Hempstead, Jr.,	John Pearce,
Arnold Bertonneau,	Wm. H. Hiestand,	P. B. S. Pinchback,
W. Jasper Blackburn,	James Henry Ingraham,	R. Poindexter,
O. C. Blandin,	Robert Hamlin Isabelle,	Curtis Pollard,
Hy. Bonseigneur,	Thomas Isabelle,	Geo. W. Ragan,
E. Bonnefoi,	George H. Jackson,	D. H. Reese,
William Brown,	Simon Jones,	F. Riard,
Dennis Burrel,	George Y. Kelso,	Daniel D. Riggs,
Wm. Butler,	James H. Landers,	J. H. A. Roberts,
W. R. Crane,	Victor M. Lange,	L. S. Rodriguez,
R. I. Cromwell,	Charles Leroy,	N. Schwab,
Samuel E. Cuny,	Jas. B. Lewis,	Charles Smith,
A. J. Demarest,	Richard Lewis,	Sosthene L. Snaer,
Charles Depasseau,	John Lynch, of Carroll,	H. R. Steele,
P. G. Deslonde,	F. Marie,	Chas. H. Thibaut,
Joseph Deslonde,	Thos. N. Martin,	Ed. Tinchaut,
A. Donato, Jr.,	J. A. Masicot,	M. H. Twitchell,
David Douglas,	William R. Meadows,	N. Underwood,
Gustave Dupart,	Benjamin McLeran,	P. F. Valfroit,
Uger Dupart,	W. L. McMillen,	Jno. B. Vandergrieff, M. D.
C. B. H. Duplessis,	Milton Morris,	Michel Vidal, of St. Lan-
J. B. Esnard,	S. R. Moses,	dry.
L. François,	Wm. Murrel,	Rufus Waples,
Hy. W. Fuller,	James Mushaway,	G. M. Wickliffe,
John Gair,	Théophile Mahier,	Henderson Williams,
R. G. Gardner,	J. P. Newsham.	David Wilson.
Leopold Guichard,		

Attest:

WM. VIGERS, *Secretary.*

AMENDMENT to Art. 99, adopted Nov., 1870, in place of that given on pages 494 and 495:

ART. 99. No person shall hold any office, or shall be permitted to vote at any election, or to act as a juror, who, in due course of law shall have been convicted of treason, perjury, forgery, bribery, or other crime, punishable by imprisonment in the penitentiary, or who shall have been under interdiction.

New Articles adopted November, 1870:

ART. —. That no person who, at any time, may have been a collector of taxes, whether State, parish, or municipal, or who may have been otherwise intrusted with public money, shall be eligible to the General Assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. —. That prior to the first day of January, one thousand eight hundred and ninety, the debt of the State shall not be so increased as to exceed twenty-five millions of dollars.



MAINE.

The coast of Maine was discovered by John and Sebastian Cabot, in 1497, but more than a century elapsed before successful attempts at settlement were made. In 1607, a colony was planted at the mouth of the Kennebec by Sir John Gilbert; but, after spending a winter of extreme hardship, the settlers returned to England, representing the country as barren and uninhabitable. The explorations of Captain John Smith, in 1614, revived colonial enterprise.

In 1639, Sir Ferdinand Gorges received a patent from the Council of Plymouth, for the country between the Piscataqua and the Kennebec, which was confirmed to him by the Crown, under the name of the "Province of Maine," of which he was Lord Palatine, with a high degree of feudal authority. He proceeded to organize a government based upon the Saxon forms existing in England in the days of King Alfred, and little suited to the times and circumstances under which they were applied. The civil war in England withdrew the attention of the Lord Proprietor from his foreign affairs, and, in 1647, he died. The colony of Massachusetts meanwhile claimed a considerable part of the province under color of a charter granted in 1628, giving right of soil and jurisdiction as far east as Casco Bay, and the inhabitants, after a short attempt at self-government, submitted, in 1652, to the authority of that colony.

Eastward of the Gorges' Patent, from the Kennebec to the St. Croix, the country was claimed by the Earl of Stirling; and, in 1663, this title was purchased on behalf of the Duke of York, who, on the 12th of March, 1664, received from his brother, Charles II, a charter for extensive tracts of land, including Pemaquid and its dependencies in Maine, the islands off the coast of Massachusetts, Long Island, and the lands held by the Dutch of New Netherland, between the Connecticut and the Delaware rivers. Upon taking possession, he established a government over the whole of these possessions, which continued until 1691. The French, in Acadia, also asserted claims westward, which conflicted with those derived from the English, and led to protracted troubles.

The charter of Gorges having been confirmed to his heirs by the King, an agent of the Colony of Massachusetts, in March, 1678, purchased the title for the sum of £1,250, and by the Provincial Charter of Massachusetts Bay, granted by William and Mary, on the 7th of October, 1691, the whole of the country between Nova Scotia and the Piscataqua, for a distance of a hundred and twenty miles into the interior, was declared a part of that Province.

The title of lands, and right of government thus acquired, continued with Massachusetts, without further change, down to the formation of a State government, the "District of Maine" being entitled to representation in the General Court of Massachusetts, and, after the adoption of a National Constitution, to a representation in Congress, as a part of that State, according to its population.

The union with Massachusetts did not continue without protest, and several Conventions were held at Portland, between 1784 and 1791, to urge a separation, and to devise measures for its accomplishment. They prepared addresses to the people, and petitioned the Legislature of Massachusetts for a peaceful separation, with the view of organizing an independent State.

It was not, however, until after the second war with England, that the measure gained strength sufficient to encourage its friends. The Federal Party, which controlled that State, by opposing the war, had become very unpopular, and the odium which they had incurred, encouraged their opponents, who were numerous in the District of Maine, to renewed efforts, in which they were joined by a portion of Massachusetts. After two or three trials, the people of the District were found largely in favor of separation.

The consent of Massachusetts was at length given, by an act passed June 19, 1819, submitting the question of separation to a vote of the people of Maine, at an election to be held on the fourth Monday of July. If a majority of 1,500 votes should be cast for the measure, an election was to be held on the third Monday of September for Delegates to a Convention, to meet on the second Monday of October, for the purpose of framing a State government, which was to be submitted to the people for their approval. The public lands were to be equally divided, and the part belonging to Massachusetts was to be free from taxation while it remained the property of the Commonwealth. An equitable division of the public debt and obligations was to be made, and the new State was to go into operation on the 15th of March, 1820. To prevent anarchy, in case a new Constitution should not be agreed upon, the Constitution of the State of Massachusetts, with certain specified changes, was to remain provisionally in force until a separate one should be adopted. On the question of separation, the vote of July 19, 1819, gave 17,091 *for*, and 7,132 *against*, the measure.

The Convention met at Portland on the 11th of October, 1819, and agreed upon a Constitution upon the 29th, when it adjourned to the first Wednesday in January, to receive and declare the results of the election upon the question of adoption by the people. It was found that 9,836 votes had been legally returned, of which 9,040 were *for*, and 796 *against*, the Constitution. Of illegal or unseasonable votes, there were 1,062, of which 985 were *for*, and 77 *against*, the measure. A petition from the Convention was received in Congress on the 8th of December, 1819, and, by an act, approved on the 3d of March, 1820, it was declared that from and after the 15th of March, 1820, the State of Maine should be admitted into the Union, on equal terms with the original States.

On the 7th of April, 1820, the representation of the two States in Congress was adjusted, by allowing thirteen members to Massachusetts, and seven to Maine.

The northeastern boundary was, from colonial times, a matter of uncertainty; and, from the organization of a National government, down to 1842, it was a subject of disagreement with Great Britain, and, at times, threatened actual war between the two nations. The decision of the question mainly depended upon what was to be regarded as the true river "St. Croix;" the British claiming that the Passamaquaddy was the true one, as proved by the ruins of a fort built on an island at its mouth, by the early French settlers. This irritating controversy was at length ended by a treaty between Daniel Webster, Secretary of State, and Lord Ashburton, Minister Plenipotentiary of Great Britain, signed at Washington on the 9th of August, 1842, ratified at London on the 13th of October, and proclaimed by the President of the United States on the 10th of November, 1842.

The States of Maine and Massachusetts were to be re-imbursed for expenses incurred in protecting the disputed territory, and received the sum of \$300,000 in equal moities, on account of their assent to the line agreed upon in the treaty, and in consideration of the conditions and equivalents received therefor from the British Government. All grants of land previously made by either party, within the disputed limits, were ratified and confirmed to the persons in possession; and all equitable claims, arising from possession and improvement of any lot or parcel of land by the person actually holding, or by those under whom such person claimed for six years or more, before the date of the treaty, were likewise confirmed. The navigation of the river St. Johns and its tributaries, where a common boundary, was declared free to both parties, and products of the forest and of agriculture, from the country watered by that stream, were to have free passage to the sea, subject only to such regulations as equally applied to the subjects of both countries.

CONSTITUTION OF MAINE, 1820.

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- I. Declaration of Rights.
- II. Electors.
- III. Distribution of Powers.
- IV. Part I. Legislative Power—House of Representatives.
Part II. Senate.
Part III. Legislative Power.
- V. Part I. Executive Powers.
Part II. Council.
Part III. Secretary.
Part IV. Treasurer.
- VI. Judicial Power.
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- IX. General Provisions.
- X. Schedule.
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ARTICLES.

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- VIII. Time of meeting of Legislature — and beginning of official terms.
- IX. Addition of two sections to Art. VI, viz:
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 - § 8. Election of Judges of Municipal and Police Courts — terms — vacancies.
- X. Amendment of third section, Art. VII, viz:
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- XI. Addition to Art. IX, viz:
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PREAMBLE.

We, the people of Maine, in order to establish justice, insure tranquillity, provide for our mutual defense, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging, with grateful hearts, the goodness of the Sovereign Ruler of the Universe, in affording us an opportunity so favorable to the design ; and, imploring His aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the STATE OF MAINE, and do ordain and establish the following Constitution for the government of the same.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

§ 2. All power is inherent in the people ; all free governments are founded in their authority, and instituted for their benefit ; they have, therefore, an unalienable and indefeasible right to institute government, and to alter, reform or totally change the same, when their safety and happiness require it.

§ 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences ; and no one shall be hurt, molested or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship ; and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference, of any one sect or denomination to another, shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust under this State ; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

§ 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty. No laws shall be passed regulating or restraining the freedom of the press; and, in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

§ 5. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause, supported by oath or affirmation.

§ 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election; to demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against him;

To have compulsory process for obtaining witnesses in his favor;

To have a speedy, public, and impartial trial; and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property or privileges, but by judgment of his peers, or the law of the land.

§ 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offenses as are usually cognizable by a Justice of the Peace, or in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries; and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

§ 8. No person for the same offense shall be twice put in jeopardy of life or limb.

§ 9. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offense; excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

§ 10.¹ [All persons, before conviction, shall be bailable except for capital offenses where the proof is evident, or the presumption great;] and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

§ 11. The Legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

§ 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 13. The laws shall not be suspended, but by the Legislature or its authority.

§ 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service, in time of war or public danger.

§ 15. The people have a right, at all times, in an orderly and peaceable manner, to assemble and consult upon the common good, to give instructions to their Representatives, and to request of either department of the government, by petition or remonstrance, redress of their wrongs and grievances.

§ 16. Every citizen has a right to keep and bear arms for the common defense; and this right shall never be questioned.

§ 17. No standing army shall be kept up in time of peace, without the consent of the Legislature; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 18. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

§ 19. Every person for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

§ 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practiced; the party claiming the right may be heard by himself and his counsel, or either, at his election.

§ 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

¹ The first clause of this section was suspended by Article II of Amendments.

§ 22. No tax or duty shall be imposed without the consent of the people, or their Representatives in the Legislature.

§ 23. No title of nobility or hereditary distinction, privilege, honor, or emolument, shall ever be granted or confirmed; nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

§ 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

ARTICLE II.

ELECTORS.

SECTION 1. Every male citizen of the United States, of the age of twenty-one years and upward, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established, and the elections shall be by written ballot. But persons in the military, naval, or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack, or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.¹

§ 2. Electors shall, in all cases except treason, felony, or breach of, the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

§ 3.² No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

§ 4.³ The election of Governor, Senators and Representatives shall be on the second Monday of September, annually, forever.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of this government shall be divided into three distinct Departments, *the Legislative, Executive and Judicial.*

§ 2. No person or persons, belonging to one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

¹ An addition was made to this section by Article XII, of Amendments.

² An addition was made to this section by Article XII, of Amendments, which provided for the voting of citizens absent on military service.

ARTICLE IV.—PART FIRST.

LEGISLATIVE POWER — HOUSE OF REPRESENTATIVES.

SECTION 1. The Legislative power shall be vested in two distinct branches; a House of Representatives and a Senate, each to have a negative on the other; and both to be styled, the *Legislature of Maine*: and the style of their acts and laws shall be, "*Be it enacted by the Senate and House of Representatives in Legislature assembled.*"

§ 2. The House of Representatives shall consist of [not less than one hundred, nor more than two hundred]¹ members, to be elected by the qualified electors for one year from the day next preceding the annual meeting of the Legislature. The Legislature which shall first be convened under this Constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature within every subsequent period of at most ten years, and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of Representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of Representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; [and whenever the number of Representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes whether the number of Representatives shall be increased or diminished; and if a majority of votes are in favor thereof, it shall be the duty of the next Legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.]²

§ 3. Each town having fifteen hundred inhabitants may elect one Representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty-six thousand two hundred and fifty inhabitants may elect seven; but no town shall ever be entitled to more than seven Representatives; and towns and plantations, duly

¹ Amended by Article IV, of Amendments, by substituting "one hundred and fifty," for the words included in brackets.

² This portion was stricken out by Article IV, of Amendments, which fixed 150 as the number of Representatives to be apportioned.

organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts, containing that number, and so as not to divide towns; and each such district may elect one Representative; and when, on this apportionment, the number of Representatives shall be two hundred, a different apportionment shall take place upon the above principle: and, in case the fifteen hundred shall be too large or too small to apportion all the Representatives to any county, it shall be so increased or diminished as to give the number of Representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations, not entitled to elect a Representative, shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of Representatives, on the application of such town or plantation, authorize it to elect a Representative for such portion of time, and such periods, as shall be equal to its portion of representation, and the right of representation, so established, shall not be altered until the next general apportionment.

§ 4. No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States; have arrived at the age of twenty-one years; have been a resident in this State one year, or from the adoption of this Constitution, and for the three months next preceding the time of his election, shall have been, and during the period for which he is elected shall continue to be, a resident in the town or district which he represents.

§ 5. The meetings¹ for the choice of Representatives shall be warned, in due course of law, by the Selectmen of the several towns, seven days, at least, before the election; and the Selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them, in open town meeting, and, in the presence of the Town Clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the Selectmen, and in open town meeting; ² [and a fair copy of this list shall be attested by the Selectmen and Town Clerk, and delivered by said Selectmen to each Representative within ten days next after such election.] And the towns and plantations, organized by law, belonging to any class herein provided, shall hold their meetings at the same time, in the respective towns and plantations; and the town and plantation meetings, in such towns and plantations, shall be notified,

¹ The words, "within the State," inserted by Article XII of Amendments.

² The words in brackets stricken out by Article XII of Amendments.

held and regulated, the votes received, sorted, counted and declared in the same manner. And the Assessors and Clerks of plantations shall have all the powers, and be subject to all the duties, which Selectmen and Town Clerks have, and are subject to, by this Constitution.¹ And the Selectmen of such towns, and the Assessors of such plantations so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the Selectmen or Assessors of the eldest town or plantation in such class, and the copies of said lists shall be then examined and compared; and, in case any person shall be elected by [a majority of all the]² votes, the Selectmen or Assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election, and the Clerks of towns and plantations, respectively, shall seal up copies of all such lists, and cause them to be delivered into the Secretary's office twenty days, at least, before the first Wednesday in January, annually; but, in case no person shall have [a majority]³ of votes, the Selectmen and Assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be at every future meeting until an election shall have been effected, provided that the Legislature may, by law, prescribe a different mode of returning, examining and ascertaining the election of the Representatives in such classes.

§ 6. Whenever the seat of a member shall be vacated, by death, resignation or otherwise, the vacancy may be filled by a new election.

§ 7. The House of Representatives shall choose their Speaker, Clerk and other officers.

§ 8. The House of Representatives shall have the sole power of impeachment.

ARTICLE IV.—PART SECOND.

SENATE.

SECTION 1. The Senate shall consist of not less than twenty, nor more than thirty-one, members, elected at the same time, and for the same term, as the Representatives, by the qualified electors of the districts into which the State shall, from time to time, be divided.

§ 2. The Legislature which shall be first convened under this Constitution shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature, at every subsequent period of ten years, cause the State to be divided into Districts for the choice of Senators. The District shall conform, as near as may be, to county lines, and be apportioned

¹ All after this stricken out, and other provisions substituted by Article XII of Amendments.

² Changed, by Article VII of Amendments, to "the highest number of."

³ Changed, by Article VII of Amendments, to "the highest number."

according to the number of inhabitants. The number of Senators shall not exceed twenty at the first apportionment, and shall, at each apportionment, be increased until they shall amount to thirty-one, according to the increase in the House of Representatives.

§ 3. The meetings¹ for the election of Senators shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded, in the same manner as those for Representatives. And fair copies of the lists of votes shall be attested by the Selectmen and Town Clerks of towns, and the Assessors and Clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation Clerks, respectively, shall cause the same to be delivered into the Secretary's office, thirty days, at least, before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of government by the Assessors of an adjacent town, shall have the privilege of voting for Senators, Representatives and Governor, in such town, and shall be notified by the Selectmen thereof, for the purpose, accordingly.

§ 4. The Governor and Council shall, as soon as may be, examine returned copies of such list,² and, twenty days before the said first Wednesday of January, issue a summons to such persons as shall appear to be elected by a majority of the votes [in] each district, to attend that day and take their seats.

§ 5. The Senate shall on the said first Wednesday of January, annually, determine who are elected by a majority of votes to be Senators in each district; and, in case the full number of Senators to be elected from each district shall not have been so elected, the members of the House of Representatives, and such Senators as shall have been elected, shall, from the highest number of the persons voted for, on said lists, equal to twice the number of Senators deficient, in every district if there may be so many voted for, elect, by joint ballot, the number of Senators required; and in this manner all vacancies in the Senate shall be supplied, as soon as may be, after such vacancies happen.

§ 6. The Senators shall be twenty-five years of age at the commencement of the term for which they are elected, and in all other respects their qualifications shall be the same as those of the Representatives.

§ 7. The Senate shall have the sole power to try all impeachments; and, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds

¹ The words, "within the State," inserted by Article XII of Amendments.

² The words "and also the votes of citizens in the military service, returned into the Secretary's office," were added, and the word "for" was substituted for "in," in the last clause, by Article XII of Amendments.

of the members present. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under this State; but the party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law.

§ 8. The Senate shall choose their President, Secretary, and other officers.

ARTICLE IV.—PART THIRD.

LEGISLATIVE POWERS.

SECTION 1. The Legislature shall convene on the first Wednesday of January,¹ annually, and shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

§ 2. Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor, and if he approve, he shall sign it; if not, he shall return it, with his objections, to the House in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass it, it shall be sent, together with the objections, to the other House, by which it shall be reconsidered; and, if approved by two-thirds of that House, it shall have the same effect as if it had been signed by the Governor; but, in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or resolution shall be entered on the journals of both Houses, respectively. If the bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the Legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

§ 3. Each House shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House shall provide.

¹ Changed to second Wednesday of May, by 5th Amendment, but restored by the 8th Amendment to the original time.

§ 4. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

§ 5. Each House shall keep a journal, and from time to time publish its proceedings, except such parts as, in their judgment, may require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journals.

§ 6. Each House, during its session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence; for obstructing any of its proceedings; threatening, assaulting, or abusing any of its members for any thing said, done or doing, in either House: *Provided*, That no imprisonment shall extend beyond the period of the same session.

§ 7. The Senators and Representatives shall receive such compensation as shall be established by law, but no law increasing their compensation shall take effect during the existence of the Legislature which enacted it. The expenses of the members of the House of Representatives, in traveling to the Legislature and returning therefrom, once in each session, and no more, shall be paid by the State, out of the public treasury, to every member who shall seasonably attend, in the judgment of the House, and does not depart therefrom without leave.

§ 8. The Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the Legislature, and no member shall be liable to answer for any thing spoken in debate in either House, in any court or place elsewhere.

§ 9. Bills, orders or resolutions may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments, as in other cases: *Provided*, That they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

§ 10. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which increased, during such term, except such offices as may be filled by elections by the people: *Provided*, That this prohibition shall not extend to the members of the first Legislature.

§ 11. No member of Congress, nor person holding any office under the United States (post officers excepted), nor office of profit under this State, Justices of the Peace, Notaries Public, Coroners, and officers

of the militia, excepted, shall have a seat in either House during his being such member of Congress, or his continuing in such office.

§ 12. Neither House shall, during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the Houses shall be sitting.

ARTICLE V.—PART FIRST.

EXECUTIVE POWER.

SECTION 1. The supreme Executive power of this State shall be vested in a Governor.

§ 2. The Governor shall be elected by the qualified electors, and shall hold his office one year, from the first Wednesday of January in each year.

§ 3. The meetings for election of Governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded, in the same manner as those for Senators and Representatives. They shall be sealed and returned into the Secretary's office in the same manner, and at the same time, as those for Senators. And the Secretary of State for the time being shall, on the first Wednesday of January then next, lay the lists before the Senate and House of Representatives,¹ to be by them examined; and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But if no person shall have a majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest number of votes on the list, if so many there be, elect two persons, and make return of their names to the Senate, of whom the Senate shall, by ballot, elect one, who shall be declared the Governor.

§ 4. The Governor shall, at the commencement of his term, be not less than thirty years of age; a natural born citizen of the United States; have been five years, or from the adoption of this Constitution, a resident of the State; and, at the time of his election, and during the term for which he is elected, be a resident of said State.

§ 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of Governor.

§ 6. The Governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

§ 7. He shall be Commander-in-Chief of the army and navy of the State, and of the militia, except when called into the actual service

¹ The words "and also the lists of votes of citizens in the military service, returned into the Secretary's office," were inserted here by Article XII of Amendments.

of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the Legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another, for the defense thereof.

§ 8. He shall nominate, and, with the advice and consent of the Council, appoint, all judicial officers, the Attorney-General, the Sheriffs, Coroners, Registers of Probate, and Notaries Public; and he shall also nominate, and, with the advice and consent of the Council, appoint, all other civil and military officers whose appointment is not, by this Constitution, or shall not by law, be otherwise provided for; and every such nomination shall be made seven days at least prior to such appointment.

§ 9. He shall, from time to time, give the Legislature information of the condition of the State, and recommend to their consideration such measures as he may judge expedient.

§ 10. He may require information from any military officer, or any officer in the Executive Department, upon any subject relating to the duties of their respective offices.

§ 11. He shall have power, with the advice and consent of the Council, to remit, after conviction, all forfeitures and penalties, and grant reprieves and pardons, except in cases of impeachment.

§ 12. He shall take care that the laws be faithfully executed.

§ 13. He may, on extraordinary occasions, convene the Legislature; and, in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting; and if, since their last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy, or contagious sickness, may direct the session to be held at some other convenient place within the State.

§ 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office, or otherwise, the President of the Senate shall exercise the office of Governor until another Governor shall be duly qualified; and, in case of the death, resignation, removal from office, or other disqualification of the President of the Senate, so exercising the office of Governor, the Speaker of the House of Representatives shall exercise the office, until a President of the Senate shall have been chosen; and when the office of Governor, President of the Senate, and Speaker of the House shall become vacant, in the recess of the Senate, the person acting as Secretary of State for the time being, shall by proclamation, convene the Senate, that a President may be chosen to exercise the office of Governor. And whenever either the President of the Senate, or Speaker of the

House, shall so exercise said office, he shall receive only the compensation of Governor, but his duties as President or Speaker shall be suspended; and the Senate or House shall fill the vacancy, until his duties as Governor shall cease.

ARTICLE V.—PART SECOND.

COUNCIL.

SECTION 1. There shall be a Council, to consist of seven persons, citizens of the United States and residents of this State, to advise the Governor in the Executive part of the government, whom the Governor shall have full power, at his discretion, to assemble; and he, with the Counsellors, or a majority of them, may from time to time, hold and keep a Council, for ordering and directing the affairs of State according to law.

§ 2. The Counsellors shall be chosen annually, on the first Wednesday of January, by joint ballot of the Senators and Representatives in Convention; and vacancies, which shall afterwards happen, shall be filled in the same manner; but not more than one Counsellor shall be elected from any District, prescribed for the election of Senators; and they shall be privileged from arrest in the same manner as Senators and Representatives.

§ 3. The resolutions and advice of Council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either House of the Legislature; and any Counsellor may enter his dissent to the resolution of the majority.

§ 4. No member of Congress, or of the Legislature of this State, nor any person holding any office under the United States, (post-officers excepted), nor any civil officers under this State, (Justices of the Peace and Notaries Public excepted), shall be Counsellors. And no Counsellor shall be appointed to any office during the time for which he shall have been elected.

ARTICLE V.—PART THIRD.

SECRETARY.

SECTION 1. The Secretary of State shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators and Representatives in Convention.

§ 2. The Records of the State shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable.

§ 3. He shall attend the Governor and Council, Senate and House of Representatives, in person, or by his deputies, as they shall respectively require.

§ 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor and Council, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

ARTICLE V.—PART FOURTH.

TREASURER.

SECTION 1. The Treasurer shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators, and Representatives in Convention, but shall not be eligible more than five years successively.

§ 2. The Treasurer shall, before entering on the duties of his office, give bond to the State, with sureties, to the satisfaction of the Legislature, for the faithful discharge of his trust.

§ 3. The Treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

§ 4. No money shall be drawn from the treasury, but by warrant from the Governor and Council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the Legislature.

ARTICLE VI.

JUDICIAL POWER.

SECTION 1. The judicial power of this State shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall, from time to time, establish.

§ 2. The Justices of the Supreme Judicial Court shall, at stated times receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

§ 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Council, Senate, or House of Representatives.

§ 4. [All judicial officers, except Justices of the Peace, shall hold their offices during good behavior, but not beyond the age of seventy years.]¹

§ 5. Justices of the Peace and Notaries Public shall hold their offices during seven years, if they so long behave themselves well, at

¹ Changed by Article III of Amendments, limiting the term of judicial officers to seven years.

the expiration of which term, they may be re-appointed, or others appointed, as the public interest may require.

§ 6. The Justices of the Supreme Judicial Court shall hold no office under the United States, nor any State, nor any other office under this State, except that of Justice of the Peace.

[Sections 7 and 8 added by Article IX of Amendments.]

ARTICLE VII.

MILITARY.

SECTION 1. The Captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the Captains and subalterns of their respective regiments. The Brigadier-Generals, in like manner, by the field officers of their respective brigades.

§ 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the Governor of the officers elected; and, if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the Governor shall appoint suitable persons to fill such offices.

§ 3.¹ [The Major-Generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The Adjutant-General and Quartermaster-General shall be appointed by the Governor and Council;² but the Adjutant-General shall perform the duties of Quartermaster-General, until otherwise directed by law. The Major-Generals and Brigadier-Generals, and the commanding officers of regiments and battalions shall appoint their respective staff officers; and all military officers shall be commissioned by the Governor.]

§ 4. The militia, as divided into divisions, brigades, regiments, battalions and companies pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the Legislature.

§ 5. Persons of the denominations of Quakers and Shakers, Justices of the Supreme Judicial Court, and ministers of the gospel may be exempted from military duty, but no other person, of the age of eighteen and under the age of forty-five years, excepting officers of the militia, who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent, to be fixed by law.

¹ Changed by Article X of Amendments.

² See Article X of Amendments.

ARTICLE VIII.

LITERATURE.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges, and seminaries of learning within the State: *Provided*, That no donation, grant or endowment shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

ARTICLE IX.

GENERAL PROVISIONS.

SECTION 1. Every person elected or appointed to either of the places or offices provided in this Constitution, and every person elected, appointed, or commissioned to any judicial, executive, military or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: "I, ———, do swear, that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof. So help me God."

"I, ———, do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as ———, according to the Constitution and the Laws of the State. So help me God." *Provided*, That an affirmation in the above forms may be substituted, when the persons shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths or affirmations shall be taken and subscribed by the Governor and Counsellors before the presiding officer of the Senate, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the Governor and Council, and by the residue of said officers before such person as shall be prescribed by the Legislature; and, whenever the Governor or any Counsellor shall not be able to attend, during the session of the Legislature to

take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme Judicial Court: *Provided*, That the Senators and Representatives, first elected under this Constitution, shall take and subscribe such oaths or affirmations before the President of the Convention.

§ 2. No person holding the office of Justice of the Supreme Judicial Court, or of any inferior court, Attorney-General, County Attorney, Treasurer of the State, Adjutant-General, Judge of Probate, Register of Probate, Register of Deeds, Sheriffs or their deputies, Clerks of the Judicial Courts, shall be a member of the Legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time, within this State, more than one of the offices before mentioned.

§ 3. All commissions shall be in the name of the State, signed by the Governor, attested by the Secretary or his deputy, and have the seal of the State thereto affixed.

§ 4. And in case the elections, required by this Constitution on the first Wednesday of January annually, by the two Houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: The vacancies in the Senate shall first be filled; the Governor shall then be elected, if there be no choice by the people; and, afterward, the two Houses shall elect the Council.

§ 5. Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor, with the advice of the Council, on the address of both branches of the Legislature. But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defense.

§ 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor and Council.

§ 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

§ 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

[Sections 9, 10 and 11 added by Articles XI and XII of Amendments.]

ARTICLE X.

SCHEDULE.

SECTION 1. The first Legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September annually shall not commence until the year one thousand eight hundred and twenty-one, and, in the mean time the election for Governor, Senators and Representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty; and at this election the same proceedings shall be had as are required at the elections, provided for in this Constitution on the second Monday in September annually, and the lists of the votes for the Governor and Senators shall be transmitted, by the town and plantation clerks, respectively, to the Secretary of State *pro tempore*, seventeen days at least before the last Wednesday in May next, and the President of the Convention shall, in presence of the Secretary of State *pro tempore*, open and examine the attested copies of said lists so returned for Senators, and shall have all the powers, and be subject to all the duties, in ascertaining, notifying, and summoning the Senators, who appear to be elected, as the Governor and Council have, and are subject to, by this Constitution: *Provided*, He shall notify said Senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided; and the Senators to be elected on the said first Monday of April, shall be apportioned as follows:

The county of York shall elect three. The county of Cumberland shall elect three. The county of Lincoln shall elect three. The county of Hancock shall elect two. The county of Washington shall elect one. The county of Kennebec shall elect three. The county of Oxford shall elect two. The county of Somerset shall elect two. The county of Penobscot shall elect one.

And the members of the House of Representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September, and the first House of Representatives shall consist of the following number, to be elected as follows:

County of York.—The towns of York and Wells may each elect two Representatives; and each of the remaining towns may elect one.

County of Cumberland.—The town of Portland may elect three Representatives; North Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Otisfield, one; Bridg-

ton, Baldwin, and Harrison, one; Poland and Danville, one; and each remaining town, one.

County of Lincoln.—The towns of Georgetown and Phippsburg may elect one Representative; Lewistown and Wales, one; St. George, Cushing, and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam and Patricktown plantation, one; Alba and Whitefield, one; Montville, Palermo and Montville plantation, one; Woolwich and Dresden, one; and each remaining town, one.

County of Hancock.—The town of Bucksport may elect one Representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Isleborough, one; Sedgwick and Bluehill, one; Gouldsbrough, Sullivan and plantations Nos. 8 and 9, north of Sullivan, one; Surry, Ellsworth, Trenton, and plantation of Mariaville, one; Lincolnville, Searsmont and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson, and Thorndike, one.

County of Washington.—The towns of Steuben, Cherryfield and Harrington may elect one Representative; Addison Columbia, and Jonesborough, one; Machias, one; Lubec, Dennysville, plantations No. 9, No. 10, No. 11, No. 12, one; Eastport, one; Perry, Robinson, Calais, plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

County of Kennebec.—The towns of Belgrade and Dearborn may elect one Representative; Chesterville, Vienna and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy and Twenty-five Mile Pond plantation, one; Harlem and Malta, one; and each remaining town, one.

County of Oxford.—The towns of Dixfield, Mexico, Weld and plantations Nos. 1 and 4, may elect one Representative; Jay and Hartford, one; Livermore, one; Rumford, East Andover and plantations Nos. 7 and 8, one; Turner, one; Woodstock, Paris and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany and Howard's Gore, one; Porter, Hiram and Brownfield, one; Waterford, Sweden and Lovell, one; Denmark, Freyburg and Freyburg Addition, one; Buckfield and Sumner, one.

County of Somerset.—The town of Fairfield may elect one Representative; Norridgewock and Bloomfield, one; Starks and Mercer, one; Industry, Strong and New Vineyard, one; Avon, Phillips, Freeman and Kingfield, one; Anson, New Portland, Embden and plantation No. 1, one; Canaan, Warsaw, Palmyra, St. Albans and Corinna, one; Madison, Solon, Bingham, Moscow and Northhill, one; Cornville, Athens, Harmony, Ripley and Warrenstown, one.

County of Penobscot.—The towns of Hampden and Newburg may elect one Representative; Orrington, Brewer and Eddington, and plantations adjacent, on the east side of Penobscot river, one; Bangor, Orono and Sunkhaze plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and plantation No. 4, in the sixth range, one; Levant, Corinth, Exeter, New Charlestown, Blakesburg, plantation No. 1 in third range, and plantation No. 1 in fourth range, one; Dexter, Garland, Guilford, Sangerville and plantation No. 3 in sixth range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburgh, plantation No. 1 in seventh range, and plantation No. 3 in seventh range, one.

And the Secretary of State, *pro tempore*, shall have the same powers, and be subject to the same duties, in relation to the votes for Governor, as the Secretary of State has, and is subject to, by this Constitution; and the election of Governor shall, on the said last Wednesday in May, be determined and declared in the same manner as other elections of Governor are by this Constitution; and, in case of vacancy in said office, the President of the Senate and the Speaker of the House of Representatives shall exercise the office as herein otherwise provided, and the Councilors, Secretary and Treasurer, shall also be elected on said day, and have the same powers, and be subject to the same duties, as is provided in this Constitution; and, in case of the death or other disqualification of the President of this Convention, or of the Secretary of State, *pro tempore*, before the election and qualification of the Governor or Secretary of State, under this Constitution, the persons to be designated by this Convention, at their session in January next, shall have all the powers, and perform all the duties, which the President of this Convention, or the Secretary, *pro tempore*, to be by them appointed, shall have and perform.

§ 2. The period for which the Governors, Senators and Representatives, Councilors, Secretary and Treasurer, first elected or appointed, are to serve in their respective offices and places, shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty-two.

§ 3. All laws now in force in this State, and not repugnant to this Constitution, shall remain and be in force until altered or repealed by the Legislature, or shall expire by their own limitation.

§ 4. The Legislature, whenever two-thirds of both Houses shall deem it necessary, may propose amendments to this Constitution; and, when any amendment shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the

Assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendments shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

§ 5. All officers provided for in the sixth section of an act of the Commonwealth of Massachusetts, passed on the 19th day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled, "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," shall continue in office as therein provided; and the following provisions of said act shall be a part of this Constitution, subject however to be modified or annulled as therein is prescribed, and not otherwise, to wit:

"SECTION 1. Whereas it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a separate and independent government within said District: Therefore,

"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and independent State, if the people of the said District shall in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions: And provided the Congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions are as follows, viz.:

"First. All the lands and buildings belonging to the Commonwealth, within Massachusetts proper, shall continue to belong to said Commonwealth, and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one-half thereof to the said Commonwealth, and the other half thereof, to the State to be formed within the said District, to be divided as is hereinafter mentioned; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title of said land remains in the Commonwealth; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same, within the proposed State, and in the courts thereof, as they now are within the said Commonwealth, and in the courts thereof; for which purposes, and for the

maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the courts of the proposed State and in the courts of the United States, holden therein; and all rights of action for, or entry into lands, and of action upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, commuted, released, or otherwise disposed of, in such manner as this Commonwealth may hereafter determine: *Provided however*, That whatever this Commonwealth may hereafter receive or obtain on account thereof if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one-third part thereof to the new State, and two-third parts thereof to this Commonwealth.

“Second. All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled, ‘An act making provisions for arming and equipping the whole body of militia of the United States, passed April the twenty-third, one thousand eight hundred and eight,’ shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the militia, according to which, the said arms have been received from the United States as aforesaid.

“Third. All money, stock or other proceeds, hereafter derived from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defense of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two-thirds to this Commonwealth, and one-third to the new State.

“Fourth. All other property, of every description, belonging to the Commonwealth, shall be holden and receivable by the same as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the Commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property, so held by said Commonwealth, as an equivalent and indemnification to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due, or unsatisfied; and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two-thirds to the said Commonwealth, and one-third to the said district; and if, in the judgment of the said Commissioners, the whole of said property, so held, as a fund and security, shall not be

sufficient indemnification for the purpose, the said District shall be liable for and shall pay to said Commonwealth, one-third of the deficiency.

"Fifth. The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, toward the Indians within said District of Maine, whether the same arise from treaties, or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as indemnification to such new State therefor, this Commonwealth when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz.: The said Commissioners shall set off by metes and bounds, so much of any part of the land within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as, in their estimation, shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof, may pay the sum of thirty thousand dollars, at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the Commissioners, on this subject, shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

"Sixth. Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The Executive authority of each State shall appoint two; and the four so appointed or the major part of them, shall appoint two more: but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the Commissioners shall be supplied in the manner provided for their original appointment; and, in addition to the powers hereinbefore given to said Commissioners, they shall have full power and authority to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall determine what lands shall be surveyed and divided, from time to time, the expense of which surveys, and of the Commissioners, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited from time to time in the

archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The executive authority of each State may revoke the power of either or both its Commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own Commissioners; four of said Commissioners shall constitute a quorum, for the transaction of business; their decision shall be final upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner, as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months' notice, neglect or refuse to appoint its Commissioners, the other may fill up the whole commission.

“Seventh. All grants of lands, franchises, immunities, corporate or other rights, and all contracts for, or grants of lands not yet located, which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and trustees of Bowdoin College, out of the tax laid upon the banks within this Commonwealth, shall be charged upon the tax upon the banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained except by judicial process, according to the principles of law; and, in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of schools and of the ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

“Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the

said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and, in such suits, the courts within Massachusetts proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies within the proposed State, as it now has, for the collection of all taxes, bonds or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massachusetts proper and the District of Maine, shall conduct themselves accordingly.

"Ninth. These terms and conditions, as here set forth, when the said District shall become a separate and independent State, shall, *ipso facto* be incorporated into, and become and be a part of any Constitution, provisional or other, under which the government of the said proposed State shall, at any time hereafter, be administered; subject however, to be modified, or annulled, by the agreement of the Legislature of both the said States; but by no other power or body whatsoever."

§ 6. This Constitution shall be enrolled on parchment, deposited in the Secretary's office, and be the supreme law of the State, and printed copies thereof shall be prefixed to the books containing the laws of this State.

DONE IN CONVENTION, *October 29, 1819.*

WILLIAM KING,
*President of the Convention,
and Member from Bath.*

[List of Delegates returned to the Convention. Those marked with a star did not sign the Constitution.]

COUNTY OF CUMBERLAND.

Baldwin..... Lot Davis.
Bridgton Phineas Ingals.
Brunswick..... Robert D. Dunning, Jonathan Page, Benjamin Titcomb.
Cape Elizabeth Ebenezer Thrasher.
Danville..... Joseph Roberts.
Durham..... Secomb Jordan, Allen H. Cobb.

<i>Falmouth</i>	Peter M. Knight, Nathan Buckman.
<i>Freeport</i>	Solomon Dennison.
<i>Gorham</i>	Lathrop Lewis, Joseph Adams, James Irish.
<i>Gray</i>	Joseph McLellan.
<i>Harpswell</i>	Stephen Purrington.
<i>Harrison</i>	Amos Thomas.
<i>Minot</i>	Asaph Howard, Charles Freeman.
<i>New Gloucester</i>	Joseph E. Foxcroft, Isaac Gross.
<i>North Yarmouth</i>	William Buxton, Ephraim Sturdivant, Jeremiah Buxton, Calvin Stockbridge.*
<i>Poland</i>	Josiah Dunn, Jr.
<i>Portland</i>	Albion K. Parris, William P. Preble, Ezekiel Whitman,* Henry Smith,* Nicholas Emery,* Asa Clap,* Isaac Ilsley.*
<i>Pownal</i>	Isaac Cushman.
<i>Raymond</i>	Zachariah Leach.
<i>Scarborough</i>	Benjamin Larrabee, Jr. ; Joseph Fogg.
<i>Standish</i>	Theodore Mussey, James D. Tucker.*
<i>Westbrook</i>	Silas Estes, Thomas Hemons, John Jones.
<i>Windham</i>	Noah Reed,* Josiah Chute.*

COUNTY OF HANCOCK.

<i>Belfast</i>	Alfred Johnson, Jr.
<i>Belmont</i>	James Weymouth.
<i>Bluehill</i>	Andrew Witham.
<i>Brooks</i>	Samuel Whitney.
<i>Bucksport</i>	Samuel Little, Samuel M. Pond.*
<i>Castine</i>	William Abbot.
<i>Deer Isle</i>	Ignatus Haskell, Asa Green.
<i>Eden</i>	Nicholas Thomas, Jr.
<i>Ellsworth</i>	Mark Shepard.
<i>Frankfort</i>	Alexander Milliken, Joshua Hall.
<i>Goldsborough</i>	Samuel Davis.
<i>Islesborough</i>	Josiah Farrow.
<i>Jackson</i>	Bordman Johnson.
<i>Knox</i>	James Weed.
<i>Lincolnville</i>	Samuel A. Whitney.
<i>Monroe</i>	Joseph Nealy.
<i>Northport</i>	David Alden.
<i>Orland</i>	Horatio Mason.
<i>Prospect</i>	Abel W. Atherton.
<i>Searsmount</i>	Ansel Lathrop.
<i>Sullivan</i>	George Henman.
<i>Surry</i>	Leonard Jarvis.
<i>Swansville</i>	Eleazer Nickerson.
<i>Thorndike</i>	Joseph Blethen.
<i>Trenton</i>	Peter Haynes.
<i>Vinathaven</i>	Benjamin Beverage.

COUNTY OF KENNEBECK

<i>Augusta</i>	Daniel Cony, Joshua Gage, James Bridge.
<i>Belgrade</i>	Elias Taylor.

<i>Chesterville</i>	Ward Locke.
<i>China</i>	Daniel Stevens.
<i>Clinton</i>	Herbert Moore.
<i>Dearborn</i>	Peasley Morrell, Jr.*
<i>Fairfax</i>	Joel Wellington.
<i>Farrington</i>	Nathan Cutler, Jabez Gay.
<i>Fayette</i>	Charles Smith.
<i>Freedom</i>	Matthew Randall.
<i>Gardiner</i>	Jacob Davis, Sanford Kingsbury.
<i>Green</i>	Luther Robbins.
<i>Hallowell</i>	Samuel Moody, William H. Page, Benjamin Dearborn.
<i>Harlem</i>	William Pullen.
<i>Joy</i>	James Parker.
<i>Leeds</i>	Thomas Francis.
<i>Malta</i>	John Hilton.
<i>Monmouth</i>	John Chandler, Simon Dearborn, Jr.
<i>Mount Vernon</i>	David McGaffey.
<i>New Sharon</i>	Christopher Dyer.
<i>Pittston</i>	Eli Young.
<i>Readfield</i>	John Hubbard, Samuel Currier.
<i>Rome</i>	John S. Colboth.
<i>Sidney</i>	Ambrose Howard, Renel Howard.
<i>Temple</i>	Benjamin Abbot.
<i>Unity</i>	Rufus Burnham.
<i>Vassalsboro</i>	Samuel Redington, Abiel Getchell, Moses Sleeper.*
<i>Vienna</i>	Nathaniel Whittier.
<i>Waterville</i>	Abijah Smith, Ebenezer Bacon.
<i>Wayne</i>	Joseph Lamson.
<i>Wilton</i>	Ebenezer Eaton.
<i>Winslow</i>	William Swan.
<i>Winthrop</i>	Alexander Belcher, Daniel Campbell.

COUNTY OF LINCOLN.

<i>Alma</i>	John Dole.
<i>Bath</i>	Joshua Wingate, Jr., Benjamin Ames.
<i>Boothbay</i>	Daniel Rose, John McKown.
<i>Bowdoin</i>	Joseph Carr.
<i>Bowdoinham</i>	Ebenezer Herrick, Elihu Hatch.
<i>Bristol</i>	Samuel Tucker, William McClintock, John Fosset.
<i>Camden</i>	Nathaniel Martin.
<i>Cushing</i>	Edward Killeran.
<i>Dresden</i>	Isaac Lillie.
<i>Edgecomb</i>	Stephen Parsons.
<i>Friendship</i>	Melzer Thomas.
<i>Georgetown</i>	Benjamin Riggs.
<i>Hope</i>	Fergus McClains.
<i>Jefferson</i>	Jesse Rowell.
<i>Lewiston</i>	John Herrick.
<i>Lisbon</i>	Nathaniel Eames, James Small.
<i>Litchfield</i>	John Neal, David C. Burr.
<i>Montville</i>	Cyrus Davis.
<i>Newcastle</i>	Ebenezer Farley.

<i>Nobleborough</i>	Ephraim Rollins.
<i>Palermo</i>	Thomas Eastman.
<i>Phippsburg</i>	Parker McCobb.*
<i>Putnam</i>	Mark Hatch.
<i>St. George</i>	Joel Miller.
<i>Thomaston</i>	Isaac Barnard, John Spear.
<i>Topsham</i>	Nathaniel Green.
<i>Union</i>	Robert Foster.
<i>Waldoborough</i>	Joshua Head, Isaac G. Reed, Jacob D. Ludwig, Jr.
<i>Wales</i>	Joseph Small.
<i>Warren</i>	John Miller, Cyrus Eaton.
<i>Whitfield</i>	Joseph Bailey.
<i>Wiscasset</i>	Abiel Wood, Warren Rice.
<i>Woolwich</i>	Ebenezer Delano.

COUNTY OF OXFORD.

<i>Albany</i>	Asa Cummings.
<i>Bethel</i>	John Grover.
<i>Brownfield</i>	James Steele.
<i>Buckfield</i>	Enoch Hall.
<i>Denmark</i>	Cyrus Ingalls.
<i>Dixfield</i>	Solomon Leland.
<i>East Andover</i>	Sylvanus Poor.
<i>Freyburg</i>	Judah Dana.
<i>Gilead</i>	Eliphaz Chapman.
<i>Greenwood</i>	Isaac Flint.
<i>Hartford</i>	Joseph Tobin.
<i>Hebron</i>	Alexander Greenwood.
<i>Hiram</i>	Marshal Spring.
<i>Jay</i>	Cornelius Holland.
<i>Livermore</i>	Benjamin Bradford, Thomas Chase, Jr.
<i>Lovell</i>	Josiah Heald, 2d.
<i>Mexico</i>	Walter P. Carpenter.
<i>Newry</i>	Luke Reily.
<i>Norway</i>	Aaron Wilkins.
<i>Paris</i>	James Hooper, Benjamin Chandler.
<i>Porter</i>	William Towle.
<i>Rumford</i>	Peter C. Virgin.
<i>Sumner</i>	Calvin Bisbee.
<i>Sweden</i>	Samuel Nevers.
<i>Turner</i>	John Turner, Philip Bradford.
<i>Waterford</i>	Josiah Shaw.
<i>Weld</i>	LaFayette Perkins.
<i>Woodstock</i>	Cornelius Perkins.

COUNTY OF PENOBSCOT.

<i>Atkinson</i>	Eleazer W. Snow.
<i>Bangor</i>	Joseph Treat.
<i>Brewer</i>	George Leonard.
<i>Carmel</i>	Abel Ruggles.
<i>Corinth</i>	Andrew Strong.
<i>Dexter</i>	Isaac Farrar.

<i>Dixmont</i>	Samuel Butman.
<i>Eddington</i>	Luther Eaton.
<i>Exeter</i>	Nathaniel Atkins.
<i>Fozcroft</i>	Samuel Chamberlain.
<i>Garland</i>	Amos Gordon.
<i>Guilford</i>	Joseph Kelsey.
<i>Hampden</i>	Simeon Stetson.
<i>Hermon</i>	William Patten.
<i>Levant</i>	Moses Hodsdon.
<i>Newburgh</i>	John Whitney.
<i>New Charleston</i>	Daniel Wilkins.
<i>Newport</i>	Benjamin Shaw.
<i>Orono</i>	Jackson Davis.
<i>Orrington</i>	John Wilkins.
<i>Sangerville</i>	Benjamin C. Goss.
<i>Sellec</i>	William R. Lowney.

COUNTY OF SOMERSET.

<i>Anson</i>	James Collins.
<i>Athens</i>	Isaiah Dore.
<i>Avon</i>	Samuel Sprague.
<i>Bingham</i>	Obed Wilson.
<i>Bloomfield</i>	Eleazer Coburn.
<i>Canaan</i>	Wentworth Tuttle.
<i>Corinna</i>	William Elder.
<i>Cornville</i>	George Bixby.
<i>Embden</i>	Andrew McFadden.
<i>Fairfield</i>	William Kendall, Stephen Thayer.*
<i>Freeman</i>	Jonathan Brown.
<i>Harmony</i>	Robert Evans.
<i>Industry</i>	Ezekiel Hinkley.
<i>Kingfield</i>	Joseph Knapp.
<i>Madison</i>	John Neal.
<i>Mercer</i>	Nahum Baldwin.*
<i>New Portland</i>	Henry Norton.
<i>New Vineyard</i>	Wm. Talcott.
<i>Norridgewock</i>	Wm. Allen, Jr.
<i>Northhill</i>	Wm. Butterfield.*
<i>Palmyra</i>	Samuel Lancey.
<i>Phillips</i>	Joseph Dyer.
<i>Ripley</i>	Jacob Hale.
<i>St. Albans</i>	Benjamin French.
<i>Solon</i>	Elisha Coolidge.
<i>Starks</i>	James Waugh.
<i>Strong</i>	James Mayhew.
<i>Warsaw</i>	Stephen Kendall.

COUNTY OF WASHINGTON.

<i>Calais</i>	William Vance.
<i>Cherryfield</i>	Joseph Adams.
<i>Eastport</i>	John Burgin, Jonathan Bartlet.*
<i>Harrington</i>	James Campbell.
<i>Jonesborough</i>	Ephraim Whitney.

<i>Lubec</i>	Lemuel Trescott.
<i>Machias</i>	John Dickinson.
<i>Perry</i>	Peter Goulding.
<i>Robbinston</i> .	Thomas Vose.
<i>Steuben</i>	Alexander Nichols.

COUNTY OF YORK.

<i>Alfred</i>	John Holmes.
<i>Arundel</i>	Simon Nowell.
<i>Berwick</i>	William Hobbs, Nathaniel Hobbs, Richard F. Cutts.
<i>Biddeford</i>	George Thacher, Seth Spring.
<i>Buxton</i>	Gideon Elden, Josiah Paine, Edmund Woodman.
<i>Cornish</i>	Thomas A. Johnson.
<i>Elliot</i>	Stephen Neal,* Elisha Shapleigh.*
<i>Hollis</i>	Ellis B. Usher, Timothy Hodsdon.
<i>Kittery</i>	Alexander Rice, Joshua T. Chase.*
<i>Lebanon</i>	David Legrow, Daniel Wood.*
<i>Limerick</i>	John Burnham.
<i>Limington</i>	David Boyd, Nathan Clark.*
<i>Lyman</i>	John Low, John Burbank.
<i>Parsonsfeld</i>	David Marston, Abner Hazen.
<i>Saco</i>	William Moody, Ether Shepley, George Thacher, Jr.
<i>Sanford</i>	Elisha Allen,* Timothy Shaw.*
<i>Shapleigh</i>	John Leighton, John Bodwell,* Samuel Heard.*
<i>South Berwick</i>	Benjamin Green.
<i>Waterborough</i>	Samuel Bradeen, Henry Hobbs.
<i>Wells</i>	Joseph Thomas, George W. Wallingford,* Joseph Dane,* Nahum Morrell,* Samuel Curtis, Jr.*
<i>York</i>	Elihu Bragdon, David Wilcox, Jeremiah Bradbury.*

Attest:

ROBERT C. VOSE,
Secretary.

AMENDMENTS TO THE CONSTITUTION OF MAINE.

ADOPTED IN PURSUANCE OF THE FOURTH SECTION OF THE TENTH
ARTICLE OF THE ORIGINAL CONSTITUTION.

ARTICLE I.¹ The electors resident in any city may, at any meeting duly notified for the choice of Representatives, vote for such Representatives in their respective ward meetings; and the Wardens in said wards shall preside impartially at such meetings, receive votes of all qualified electors present, sort, count, and declare them in open ward meetings, and in the presence of the Ward Clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name; shall make a fair record thereof in the presence of the Wardens, and in open ward meeting; and a fair copy of this list shall be attested by the Warden and Ward Clerk, sealed up in open ward meeting, and delivered to the City Clerk within twenty-

¹ Adopted in pursuance of a resolve of March 7, 1834.

four hours after the close of the polls. ¹ [And the Aldermen of any city shall be in session, at their usual place of meeting, within twenty-four hours after any election, and in the presence of the City Clerk shall examine and compare the copies of said lists, and in case any person shall have received [a majority of all the]² votes, he shall be declared elected by the Aldermen; and the City Clerk of any city shall make a record thereof, and the Aldermen and City Clerk shall deliver certified copies of such lists to the person or persons so elected, within ten days after the election.] And the electors resident in any city may at any meeting duly notified and holden for the choice of any other civil officers, for whom they have been required heretofore to vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the Warden and Ward Clerk, in each ward, as in the case of votes for Representatives. And the Aldermen of any city shall be in session within twenty-four hours after the close of the polls in such meetings, and in the presence of the City Clerk, shall open, examine and compare the copies from the lists of votes given in the several wards, of which the City Clerk shall make a record, and a return thereof shall be made into the Secretary of State's office in the same manner as Selectmen of towns are required to do.

ART. II.³ No person, before conviction, shall be bailable for any of the crimes, which now are, or have been denominated capital offenses since the adoption of the Constitution, where the proof is evident or the presumption great, whatever the punishment of the crimes may be.

ART. III.⁴ All judicial officers now in office or who may be hereafter appointed shall, from and after the first day of March, in the year 1840, hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the Executive), and no longer, unless re-appointed thereto.

ART. IV.⁵ The second section, article fourth, part first, of the Constitution, is amended by substituting the words *one hundred and fifty-one* for "not less than one hundred nor more than two hundred," before the word "members" in said section, so as to establish the number of Representatives for the State at the number of one hundred and fifty-one; and the latter part of said section, being the words and

¹ The following sentence, ending with the word "election," was stricken out by Article XII of Amendments.

² Changed by Article VII, of Amendments, to "the highest number of."

³ Adopted in pursuance of a resolve of March 30, 1837, as a substitute for the first clause of Article I, section 10.

⁴ Adopted in pursuance of a resolve of March 14, 1839, as a substitute for Article VI, section 4.

⁵ Adopted in pursuance of a resolve of April 6, 1841.

sentences following: "and whenever the number of Representatives shall be two hundred, at the next annual meetings of election which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of Representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the duty of the next Legislature thereafter to increase or diminish the number by the rule hereinafter prescribed," shall not be a part of the Constitution; but one hundred and fifty-one Representatives shall be apportioned according to the rule in this Constitution.

ART. V.¹ [The annual meeting of the Legislature shall be on the second Wednesday of May, in each year; and the Governor and other State officers elected for the political year commencing on the first Wednesday of January, in the year of our Lord one thousand eight hundred and forty-five, shall hold their offices till the second Wednesday of May, in the year of our Lord one thousand eight hundred and forty-six.]

ART. VI.² The credit of the State shall not be directly or indirectly loaned in any case.

The Legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed three hundred thousand dollars, except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been, or may be, deposited with this State by the Government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

ART. VII.³ The Constitution of this State is amended in the fifth section of the first part of the fourth article, by striking out the words, "a majority of all the," and inserting instead thereof, the words, "the highest number of," and by striking out the words "a majority" where they again occur in the same section, and inserting instead thereof, the words, "the highest number;" also in the first amendment to the Constitution of this State, by striking out the words, "a majority of all the," and inserting instead thereof, the words, "the highest number of."

ART. VIII.³ The annual meeting of the Legislature shall be on the first Wednesday of January, in each year; and the Governor and

¹ Submitted March 19, 1844; declared adopted March 26, 1845; annulled by Article VIII, of Amendments.

² Submitted July 26, 1847; declared adopted July 29, 1848.

³ Submitted August 21, 1850; declared adopted May 30, 1851.

other State officers elected for the political year commencing on the second Wednesday of May, in the year of our Lord one thousand eight hundred and fifty-one, shall hold their offices till the first Wednesday of January, in the year of our Lord one thousand eight hundred and fifty-two.

ART. IX.¹ The Constitution of this State is amended as follows. In the sixth Article it is amended by adding the following sections at the end of said Article :

“§ 7. Judges and Registers of Probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the annual election, on the second Monday of September, and shall hold their offices for four years, commencing on the first day of January next after their election. Vacancies occurring in said offices by death, resignation, or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence; and, in the mean time, the Governor, with the advice and consent of the Council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January thereafter.

“§ 8. Judges of Municipal and Police Courts shall be elected by the people of their respective cities and towns, by a plurality of the votes given in at the annual meeting in March or April, and shall hold their offices for four years from the Monday following the day of their election. Vacancies in said office shall be filled by election at the next annual meeting in March or April; and, in the mean time, the Governor, with the advice and consent of the Council, may fill said vacancies by appointment, until the Monday following said annual meeting.”

ART. X.¹ In the third section of the seventh Article it is amended so that said section shall read :

“§ 3. The Major-Generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The Adjutant-General and the Quarter-Master General shall be chosen annually by a joint ballot of the Senators and Representatives in Convention. But the Adjutant-General shall perform the duties of Quarter-master General until otherwise directed by law. The Major-Generals and Brigadier-Generals, and the commanding officers of regiments and battalions, shall appoint their respective staff officers; and all military officers shall be commissioned by the Governor.”

ART. XI.¹ The ninth article is amended by inserting at the end thereof the following sections :

“§ 9. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of Sep-

¹ Submitted March 17, 1855; declared adopted February 28, 1856.

tember, and shall hold their offices for two years, from the first day of January next after their election. Vacancies shall be filled in the same manner as is provided in the case of Judges and Registers of Probate.

“§ 10. The Land Agent and Attorney-General shall be chosen annually by joint ballot of the Senators and Representatives in convention. Vacancies in said offices, occurring when the Legislature is not in session, may be filled by appointment by the Governor, with the advice and consent of the Council.”

ART. XII.¹ Section one, of Article two, shall be amended by adding thereto the following words: “No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State.”

Section four, of Article two, shall be amended by adding thereto the following provisions: “But citizens of the State, absent therefrom in the military service of the United States, or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote on Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and sixty-four, for Governor and Senators, and their votes shall be counted and allowed in the same manner, and with the same effect, as if given on the second Monday of September in that year. And they shall be allowed to vote for Governor, Senators and Representatives on the second Monday of September, annually thereafter, forever, in the manner herein provided. On the day of election a poll shall be opened at every place without this State where a regiment, battalion, battery, company, or detachment of not less than twenty soldiers from the State of Maine may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation and county in this State where he resided when he entered the service. The vote shall be taken by regiments when it can conveniently be done; but, when not so convenient, any detachment or part of a regiment, not less than twenty in numbers, and any battery or part thereof numbering twenty or more, shall be entitled to vote wherever they may be. The three ranking officers of such regiment, battalion, battery, company, or part of either, as the case may be, acting as such on the day of election, shall be supervisors of elections. If no officers, then three non-commissioned officers, according to their seniority, shall be such supervisors. If any officer or non-commissioned officer shall neglect

¹ Submitted March 24, 1864.

or refuse to act, the next in rank shall take his place. In case there are no officers or non-commissioned officers present, or if they or either of them refuse to act, the electors present, not less than twenty, may choose, by written ballot, enough of their own number, not exceeding three, to fill the vacancies, and the persons so chosen shall be supervisors of elections. All supervisors shall be first sworn to support the Constitution of the United States, and of this State, and to faithfully and impartially perform the duties of supervisors of elections. Each is authorized to administer the necessary oath to the others; and certificates thereof shall be annexed to the list of votes by them to be made and returned into the office of the Secretary of State of this State, as hereinafter provided. The polls shall be opened and closed at such hours as the supervisors, or a majority of them, shall direct: *Provided, however,* That due notice and sufficient time shall be given for all voters in the regiment, battalion, battery, detachment, company, or part of either, as the case may be, to vote. Regimental and field officers shall be entitled to vote with their respective commands. When not in actual command, such officers, and also all general and staff officers, and all surgeons, assistant surgeons and chaplains, shall be entitled to vote at any place where polls are opened. The supervisors of elections shall prepare a ballot-box or other suitable receptacle for the ballots. Upon one side of every ballot shall be printed or written the name of the county, and also of the city, town or plantation of this State, in which is the residence of the person proposing to vote. Upon the other side shall be the name or names of the persons to be voted for, and the office or offices which they are intended to fill. And, before receiving any vote, the supervisors, or a majority of them, must be satisfied of the age and citizenship of the person claiming to vote, and that he has, in fact, a residence in the county, city, town or plantation which is printed or written on the vote offered by him. If his right to vote is challenged, they may require him to make true answers, upon oath, to all interrogatories touching his age, citizenship, residence, and right to vote, and shall hear any other evidence offered by him, or by those who challenge his right. They shall keep correct poll-lists of the names of all persons allowed to vote, and of their respective places of residence in this State, and also the number of the regiment and company or battery to which they belong; which list shall be certified by them, or by a majority of them, to be correct, and that such residence is in accordance with the indorsement of the residence of each voter on his vote. They shall check the name of every person before he is allowed to vote, and the check-mark shall be plainly made against his name on the poll-list. They shall sort, count and publicly

declare the votes at the head of their respective commands, on the day of election, unless prevented by the public enemy, and, in that case, as soon thereafter as may be; and, on the same day of said declaration, they shall form a list of the persons voted for, with the number of votes for each person against his name, and the office which he is intended to fill, and shall sign and seal up such list, and cause the same, together with the poll-lists aforesaid, to be delivered into the office of the Secretary of State aforesaid, on or before the first day of December, in the year one thousand eight hundred and sixty-four, and on or before the fifteenth day of November, annually thereafter, forever. The Legislature of this State may pass any law additional to the foregoing provisions, if any shall, in practice, be found necessary in order more fully to carry into effect the purpose thereof."

Section five, of Article four, Part first, shall be amended, by inserting after the word "meetings," in the first line, the words "within this State." The same section shall also be amended, by striking out all after the words "town meeting," in the tenth line, as printed in the Revised Statutes of eighteen hundred and fifty-seven, to and including the word "election" in the thirteenth line. The same section shall also be amended, by striking out all after the word "Constitution," in the twenty-first line, and inserting in the place thereof the following provisions: "And fair copies of the lists of votes shall be attested by the Selectmen and Town Clerks of towns, and the Assessors of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks, respectively, shall cause the same to be delivered into the Secretary's office thirty days at least before the first Wednesday of January annually. And the Governor and Council shall examine the returned copies of such lists, and also all lists of votes of citizens in the military service, returned to the Secretary's office, as provided in the amendment to Article second, Section four, of this Constitution; and twenty days before the said first Wednesday of January, annually, shall issue a summons to such persons as shall appear to be elected by a plurality of all the votes returned, to attend and take their seats. But all such lists shall be laid before the House of Representatives on the first Wednesday of January annually, and they shall finally determine who are elected."

Section three, of Article four, Part second, shall be amended, by inserting after the word "meetings," in the first line, the words "within this State."

Section four, of Article four, Part second, shall be amended, by adding after the word "lists," in the second line, the words, "and also the votes of citizens in the military service, returned into the

Secretary's office." The same section shall also be amended in the last line, by striking out the word "in," and inserting in place thereof the word "for."

Section three, of Article five, Part first, shall be amended, by adding after the words "Senate and House of Representatives," the words, "and also the lists of votes of citizens in the military service, returned into the Secretary's office."

Article first of the Amendments to the Constitution of this State, heretofore adopted, shall be amended by striking out all after the word "polls," in the thirteenth line, to and including the word "election," in the twenty-first line.

Article ninth, of said Amendment,¹ shall be amended, by adding at the end thereof the following provisions:

"§ 11. But citizens of this State, absent therefrom in the military service of the United States, or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote for Judges and Registers of Probate, Sheriffs and all other county officers, on the Tuesday next after the first Monday of November, in the year one thousand eight hundred and sixty-four, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter, forever. And the votes shall be given at the same time and in the same manner, and the names of the several candidates shall be printed or written on the same ballots, with those for Governor, Senators and Representatives, as provided in the amendment to Section four of Article second of this Constitution."

ART. XIII.² The State is authorized to issue bonds, payable within twenty-one years, at a rate of interest not exceeding six per cent a year, payable semi-annually, which bonds, or their proceeds, shall be devoted solely toward the re-imbursement of the expenditures incurred by the cities, towns and plantations of the State for war purposes during the rebellion, upon the following basis: Each city, town and plantation shall receive from the State one hundred dollars for every man furnished for the military service of the United States under and after the call of July second, eighteen hundred and sixty-two, and accepted by the United States toward its quota for the term of three years, and in the same proportion for every man so furnished and accepted for any shorter period; and the same shall be in full pay-

¹ This reference to Article "ninth" has relation to the Revised Statutes of 1857, in which this Article is made to include Articles IX, X and XI, as divided in this volume, in which the arrangement adopted in the Legislative Manual of the State of Maine for 1869 is followed.

² Submitted March 7, 1868; declared adopted October 18, 1868.

ment for any claim upon the State on account of its war debts by any such municipality. A commission appointed by the Governor and Council shall determine the amount to which each city, town and plantation is entitled, to be devoted to such re-imbursement; the surplus, if any, to be appropriated to the soldiers who enlisted or were drafted, and went at any time during the war, or, if deceased, to their legal representatives. The issue of bonds hereby authorized shall not exceed, in the aggregate, three million five hundred thousand dollars, and this amendment shall not be construed to permit the credit of the State to be directly or indirectly loaned in any other case, or for any other purpose.

ART. XIV.¹ The Legislature may, by law, authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting districts for the election of Representatives to the Legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.

¹ Submitted March 18, 1869; declared adopted December 15, 1869. In the resolve submitting the amendment (chap. 91, Resolves of 1869), it is numbered "XIII;" but other amendments having been adopted in 1868, bearing this number, we have designated this as the Fourteenth.



MARYLAND.

Sir George Calvert, one of the members of the London or Virginia Company under its second charter of 1609, became much interested in the colonization of Virginia, and upon the dissolution of that company he was named one of the Royal Commissioners to whom the government of that colony was intrusted.

Having learned that the territory bordering upon the Chesapeake was inhabited only by the natives, he explored the country, and on his return to England, obtained the assent of Charles I for a grant of territory, but died before a charter was executed. It was issued June 20, 1632, to his son Cecilius Calvert, Lord Baltimore, and embraced "all that part of the Peninsula, or Chersonese, lying in the parts of America, between the ocean on the east and the bay of Chesapeake on the west, divided from the residue thereof by a right line drawn from the promontory or headland called Watkins' Point, situate upon the bay aforesaid, near the river of Wigheo, on the west, unto the main ocean on the east; and between that boundary on the south, unto that part of the bay of Delaware on the north, which lieth under the fortieth degree of north latitude from the equinoctial, where New England is terminated; and all the tract of that land within the metes underwritten (that is to say) passing from the said bay called Delaware bay, in a right line, by the degree aforesaid, unto the true meridian of the first fountain of the river Pattowmack; thence verging toward the south, unto the further bank of the said river, and following the same on the west and south, unto a certain place called Cinquack, situate near the mouth of the said river, where it disembogues into the bay of Chesapeake; and thence by the shortest line unto the aforesaid promontory, or place, called Watkins' Point."

This grant was made in full and absolute propriety to Lord Baltimore and his heirs, saving the allegiance and sovereign domain to the crown, with all the rights, regalities and prerogatives which the Bishop of Durham enjoyed in that palatinate, to be held of the crown as of the castle of Windsor, in the county of Berks, in free and common soccage, by fealty only for all services, and not in capite, nor by knight's service, upon the delivery annually of two Indian arrows, and with a reservation of the fifth part of all gold and silver ores.

The charter embraced liberal privileges of government, and the right of passing laws without giving a veto power to the King, as had been reserved in other colonies. A spirit of religious toleration governed the counsels of the Lord Proprietary, and although himself a Roman Catholic, he allowed more freedom of opinion than was usually then tolerated. The ecclesiastical laws of England, so far as related to the consecration and presentation of churches and chapels, were extended to the colony, but otherwise the subject of religion was left to the inhabitants themselves. A conciliatory policy toward the native tribes, saved the colony from the miseries of Indian wars. The mildness of the climate, facility of access, and liberal terms of the charter and early regulations, tended to promote the growth and prosperity of the colony.

The first settlement was founded at St. Mary's in 1634, and the first experiment at legislation was made at that place in the following year, by the freemen at large. In 1638-9, provision was made for a Representative Assembly. A body of laws drawn up by the Lord Proprietary in England, and sent over for adoption, was rejected, upon the ground that the legislative power was vested in the inhab-

itants themselves, and they insisted upon the maintenance of this right. But, although the veto power of the Proprietary was absolute, this right was conceded for the good of the colony.

On the 25th of February, 1638, the House of Assembly passed "An act ordain- ing certain laws for the government of this Province," which declared that the Holy Church should have all her rights and liberties; that the inhabitants should take an oath of allegiance to his majesty; that the Lord Proprietary should have all his rights and prerogatives, and the inhabitants their rights and liberties, according to the great Charter of England; that right and justice should be done in all causes civil, according to the laws and usages of the Province, or otherwise according to the laws of England, and other declarations of duty and privileges—in all sixteen in number, and forming together an excellent basis for the management of affairs, as the colony was then situated, but limited in its operation to the end of the next General Assembly, or, if none be held within that time, for three years only.

The principle of religious toleration was not maintained with impartiality. A denial of the Trinity was, in 1649, made blasphemy, punishable by death and confiscation of goods and lands; and the use of reproachful words or speeches concerning the Virgin Mary or the Holy Apostles or Evangelists, or the calling of names reproachfully to one another, by applying sectarian terms relating to matters of religion, was punishable by fines, public whipping or imprisonment. Under the protectorate of Cromwell, Roman Catholics were, by an act passed October 20, 1654, expressly denied protection within the Province; but such as professed faith in God by Jesus Christ, though differing in judgment from the doctrine, worship or discipline publicly held forth, should not be restrained from, but protected in, the profession of their faith and the exercise of their religion, so as they abuse not this liberty to the injury of others, the disturbance of the peace, or the practice of licentiousness.

In 1692 the Church of England was established in the Province, and, in 1702, the liturgy and ceremonies of that church were required to be performed in all the churches, with such toleration, however, to dissenters, as was allowed under the act of 1 William and Mary. In 1716, test and abjuration acts were passed, which excluded all Roman Catholics from office.

In April, 1650, the General Assembly was divided into an Upper and Lower House, the former consisting of the Governor, Secretary, and any one or more of the Council, and the latter of Burgesses elected by the counties. The sessions of the General Assembly were usually held at St. Mary's, until 1695, when the port of Annapolis became the seat of government.

During the protectorate of Cromwell, the Lord Proprietary, by consenting to acknowledge the authority of Parliament, was allowed to retain his station, but civil discord prevailed until the restoration. In 1675, Cecilius, called Lord Baltimore, died, having administered the affairs of the Province more than forty years, with a liberality and benevolence that greatly tended to the general prosperity of the Province. He was succeeded by his son, Charles, who had acted several years as Governor, and who subsequently, for a time, administered the government in person. In 1676, a general revision of the laws was made, and the validity of those of doubtful nature was fixed by an act enumerating those which were repealed, and those which were confirmed.

The prosperity of the colony had excited the avarice of Charles II, who began to threaten Lord Baltimore with a writ of quo warranto, with the design of annulling his charter. On his return to England, he found James II in power, but public affairs were in an unsettled condition, and his rights in peril, both from the King and his enemies. At length, in April, 1687, the writ of quo war-

ranto was issued, but, before proceedings could be brought, the revolution of 1688 had placed William and Mary upon the throne.

While thus saved by a revolution, the day of reverses was fast approaching. The Lord Proprietary immediately yielded compliance to the change, and sent orders to his deputies to have the accession of the new sovereigns to the throne proclaimed; but these instructions were delayed until the event had been proclaimed in all the neighboring colonies, and the authorities hesitated. Malicious rumors were started, pretended leagues between the Catholics and Indians for the destruction of the Protestants were reported, and an armed association for the defense of the Protestant religion took possession of the Province.

A Convention of the people, called at St. Mary's, August 23, 1689, drew up and forwarded to the King an account of their proceedings, which were approved. In 1691, the King took the government of the colony into his own hands, and a Royal government was maintained until 1715, when it was restored to the heir of the former Lord Proprietary, who was now of the Protestant faith.

But little occurred to disturb the general quiet of the colony, from this event until the period of the American Revolution. The boundaries on the side of Virginia had formerly been disputed by that colony, who claimed that the grant to Lord Baltimore had been made within her territory, but she abandoned these claims in 1658. On the southern line, east of the Chesapeake, some difficulties occurred, which were finally adjusted, June 25, 1668, and the line distinctly indicated as it now exists.

The Provinces of Pennsylvania and Delaware, owned by Penn, presented a more difficult and lasting source of controversy, which continued to disturb the border for more than a hundred years. In 1685, Penn obtained a decree which afterward became the basis of settlement as regards Delaware, and the line as it now exists, was finally run and marked by Commissioners, and approved on the 11th of January, 1769.

In 1732, an agreement was entered into by the Proprietary, which fixed the northern line of Maryland on a parallel fifteen miles south of Philadelphia; but, on his learning the extent of his concession, he endeavored to set it aside. A decree in Chancery, in 1750, was obtained by the Penns, to enforce this agreement, and, finally, on the 4th of July, 1760, an amicable arrangement was agreed upon, and a deed of settlement signed. Charles Mason and Jeremiah Dixon were employed to run the line between the two Provinces. They arrived in Philadelphia on the 15th of November, 1763, and after fixing upon the starting point, proceeded slowly and carefully to run and mark the line. In the autumn of 1767, having reached a distance of 244 miles from the Delaware, they were stopped by Indian hostilities. The line was not finally continued to its western extremity until 1784. "Mason and Dixon's Line," thus named from the scientific gentlemen employed to make the survey, became in after times a familiar term for designating the boundary between the free and the slave States.

Upon the approach of the Revolution, Provincial Conventions were held at Annapolis, in June, November and December, 1774, and in April, May and July, 1775. On the 26th of July, 1775, an "Association of the Freemen of Maryland" was formed for the common defense. On the 25th of May, 1776, the Convention resolved to recommend the omission of the King's name in all religious services within the Province (except the second collect for the King in the communion service), until the existing difficulties with the mother country were settled. On the 28th of June, 1776, the former instructions of Delegates in the Continental Congress were withdrawn, and authority was given for concurrence in a declaration of independence.

On the 2d of July, the Convention ordered "that a new Convention be elected

for the express purpose of forming a new government, by the authority of the people only, and enabling and ordering all things for the preservation, safety and general weal of this country." Elections were to be held *viva voce* (as formerly), inspectors were named, the qualifications of voters specified, and the first of August designated for the beginning of the election. Meanwhile, all civil officers were instructed to continue the exercise of their duties as before.

The Delegates thus chosen met at Annapolis on the 14th of August, 1776, and on the 17th chose by ballot a committee, consisting of the President (Mr. Matthew Tilghman), Mr. Carroll, barrister, Mr. William Paca, Mr. Carroll of Carrollton, Mr. George Plater, Mr. Samuel Chase and Mr. Robert Goldsborough, to prepare a Declaration and Charter of Rights, and a Form of Government for the State. A Declaration and Charter of Rights was reported by Mr. Plater on the 27th, and ordered printed for consideration. At this time, Mr. Carroll, barrister, and Mr. Chase, of the committee, resigned, having received instructions from their constituents which, in their opinions, were incompatible with the public good. Their places were supplied on the 30th by the election of Mr. Johnson and Mr. Hooe.

The Declaration of Rights and Form of Government, having been discussed from day to day for some time, were finally adopted November 3, 1776, and, after some further amendments, were published on the 8th of that month, and on the 11th the Convention finally adjourned.

While the Constitution of Maryland was under discussion, Virginia adopted her first Constitution, in which it confirmed to the people of the neighboring governments their rights of property, jurisdiction and government, and all other rights whatsoever, which might at any time heretofore have been claimed by Virginia, "except the free navigation and use of the rivers Potomaque and Pokamoke, with the property of the Virginia shores and strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of Virginia shall, in all other respects, stand as fixed by the charter of King James I in the year 1609, and by the public treaty of peace between the courts of Britain and France in the year 1763; unless, by act of this Legislature, one or more governments shall be established westward of the Alleghany mountains."

This assertion of rights was held to interfere with Maryland, and at once aroused the Convention. In strong terms they denounced these claims, insisting that "if the dominion of those lands should be established by the blood and treasure of the United States, such lands ought to be considered as a common stock, to be parceled out, at proper times, into convenient free and independent governments."

With some amendments, the Constitution of 1776 remained the organic law of Maryland during more than seventy years. The legislative power was vested in a Senate and House of Delegates, who were together styled the "General Assembly." The Senate consisted of fifteen members; nine from the western and six from the eastern shore, chosen for five years by electors elected for the purpose by a *viva voce* vote of the qualified voters, and with the power of filling vacancies by their own appointment. The Governor was chosen annually by the joint ballot of the two Houses of the General Assembly, and was assisted by a Council of five members chosen by the same bodies. He had no veto power, and his duties were strictly executive. In 1802, the property qualification of voters was removed, and, in 1810, the like qualification of office holders. The judicial system was also modified, by the formation of Judicial Districts, and the establishment of a Court of Appeals.

Still the Constitution was found defective in many important points, and a

party favoring reform began to acquire strength. As the House of Delegates was composed of four members from each county, and two from the cities of Baltimore and Annapolis, the smaller and less populous counties had as much influence as the larger, and, as population concentrated, it came to such result that a minority of the population controlled the whole system of State government. The idea of re-apportionment of the representation had not entered into the calculations of the founders of the government. As the Constitution provided no mode of amendment except through the General Assembly itself, by enactment of law at two successive sessions, and as the power thus enjoyed was too agreeable to be surrendered with cheerfulness, especially by the Senate, the advocates of reform encountered great difficulties, which only stimulated to greater efforts.

On the 6th of June, 1836, delegates from Cecil, Harford, Baltimore, Frederick, Montgomery and Washington counties, and Baltimore city, met in Convention and adopted resolutions advising the election of Delegates, at the next election, pledged to introduce a bill for submitting to the people the question of a Constitutional Convention. They empowered their President to re-assemble their body, in case their measure failed, "to take such ulterior measures as might be then deemed expedient, just, proper, and best calculated, *without the aid of the Legislature*, to ensure the accomplishment of the desired results." The Lower House had been for several years in favor of reform, and the principal effort was to be made with the Senate. An election of Senatorial electors was approaching, and it was ascertained that a majority of reformers had been elected. But an unexpected crisis here occurred. It was found that twenty-one Whig and nineteen Democratic Senatorial electors had been chosen, but when the time for meeting arrived, only the twenty-one appeared and qualified, and, as the Constitution required the presence of twenty-four, nothing could be done. The nineteen, having met in caucus, determined to secure a majority "of a similar complexion with the people electing them, and entertaining the same opinions and sentiments," in the Senate, and as they represented counties which actually had the largest population and greatest number of voters, they claimed the right of nominating eight of the fifteen Senators.

This proposition was made and rejected, and thus several days passed. At length one of the nineteen appeared and qualified, and soon six others. The Senate elected was in favor of reform; and the desired amendments, re-organizing the Senate, abolishing the Council, and equalizing somewhat the representation, were secured. The Governor and Senate were now to be elected directly by the people, and the Senators were so classified that one-third of their number would be elected every second year. A section was at this time introduced, declaring that the relation of master and slave should not be abolished, unless by a bill passed by a unanimous vote of the members of each House, at two successive sessions, nor then, without full compensation to the master for the property of which he would thereby be deprived.

In 1845-46, the Constitution was again amended by making the sessions of the General Assembly biennial instead of annual.

Still a desire for a more thorough revision of the Constitution prevailed, and, at a session of the General Assembly, held in December, 1849, the question of calling a Convention for this purpose was submitted to the people. Of the sixty thousand voters in the State, only about a third voted, yet, the majority being in favor of the measure, an election of Delegates was held, and a Convention met on the 4th of November, 1850. It remained in session until the 13th of May, 1851, when it agreed upon a Constitution, which was ratified by the people on the 4th of June of that year.

Among the changes which this Constitution introduced, was the addition of an article in the Declaration of Rights, asserting the "unalienable right to alter the form of the government," and a requirement that, at the next session after every national census, the question of a Convention should be submitted to the people for decision. The elective franchise was guarded against bribery, the Governor's term extended to four years, his pardoning power restrained, and he was required to examine the books and official acts of the Treasurer and Comptroller of the State semi-annually, or oftener if he deemed it expedient. Important changes were made in the legislative and judicial departments, and Judges were to be elected, by Districts, for a term of years, instead of being appointed for life as before. The Court of Chancery was abolished.

In the troubled condition of the border, during the early period of the rebellion, the Legislature of Maryland neglected to provide for a submission of the question of a Convention, after the census of 1860, as was required by the Constitution. This occasioned complaint on the part of those who were looking forward to this opportunity for securing certain reforms; and on the 28th of May, 1862, at a meeting of the Union Convention of the city of Baltimore, a series of resolutions was unanimously adopted, strongly favoring a firm adherence to the Union and a vigorous support of the general government in the existing war. As a proof of the injustice of representation under the Constitution of 1851, which was based upon the whole population of every class, it was stated, that, "notwithstanding the eight counties (this city included), lying north of the Sassafra and Patapsco rivers contain about three-fourths of the white population and wealth of this State, and pay more than three-fourths of the taxes, yet, according to the basis of representation under the present Constitution, the southern counties, containing one-fourth of the population and wealth, and paying less than one-fourth of the taxes, possess the virtual control of the whole State, sending 34 out of the 74 Delegates, and 14 out of 21 Senators, to the Legislature, being an average of one Delegate to 3,831 white persons in the southern counties against one Delegate to 9,641 in the northern; and one Senator to 9,205 in the former against one Senator to 48,205 free white persons in the latter; and whereas, in the present arrangement of representation, according to which Baltimore city has no more voice in the Senate than counties containing hardly more voters than one of her wards, and was deprived of 15 Delegates to which she was entitled, which were distributed among the southern counties exclusively, the object was to secure the power of the State to the slave owners, constituting less than 16,000 individuals, as is apparent from the fact that the number of slaves in the city is less than one per cent of the whole population, and that the proportion of slaves to the whites throughout the northern part of the State is less than 4 of the former to 100 of the latter, whilst the proportion in the favored counties is 56 slaves to 100 white people; and whereas the Judges of the Court of Appeals, and the United States Senators, are elected according to a similar unjust arrangement, for the same purpose of confirming and perpetuating this domination of the slave-holding counties; and whereas, in pursuance of the same partial and iniquitous scheme, the owners of slave property are exempted from equal taxation, while they are compensated to its full value in case of convict slaves—all of which are intolerable burdens to a majority of our people, who are, nevertheless, without remedy under the present Constitution; Therefore, *Resolved*, That the State Constitution ought to be changed, so as to correct the present unequal representation of the people in the Legislature, and to secure the right of representation in proportion to white population in all parts of the State."

Nearly two years, however, elapsed before the opportunity occurred for the remedy of these evils. An act was finally passed, at the January session, in 1864, for calling another Convention. It met April 27th, and adjourned September 6th, of that year, after agreeing upon a Constitution in many points different from the former. It declared that the Constitution and laws of the United States were the supreme laws of the land, and that every citizen owed paramount allegiance to the Constitution and Government of the United States, nor was he bound by any law or ordinance in contravention or subversion thereof. Slavery was abolished, and the Legislature was forbidden from making compensation to the masters of slaves emancipated by the Constitution. Representation was based upon the white population, and persons who had aided or encouraged rebellion against the United States were denied the elective franchise. A registration of voters was required, and an oath prescribed which excluded those who had aided or encouraged the rebellion. The office of Lieutenant-Governor was created, a system of common school education was provided, and a registration of births, marriages and deaths was required. The right of voting was extended to soldiers in the field, and the mode of conducting the elections upon the adoption of the Constitution was particularly prescribed.

The vote upon the Constitution was taken on the 9th and 10th of October, 1864, and was announced on the 29th of October, by Governor Bradford, as follows:

For the Constitution, ...	30,174
Against the Constitution, ...	29,799
Blank ballots, ...	61
Ballots reported against the Constitution, but not counted, because the persons offering them refused to take the oath required by the Constitution, ...	33
Total vote, ...	60,067

Of these, the home vote was 27,541 *for*, and 29,536 *against*. The soldiers' vote, counted by the Governor, was 2,633 *for*, and 263 *against*. Four returns from the army were rejected, which gave 285 *for*, and 5 *against*. Before the issue of a proclamation, application was made to the Court of Appeals for a mandamus to prevent its issue, which the court refused to grant. The proclamation was issued October 29th, and the new Constitution took effect November 1, 1864.

This Constitution provided for the submission of the question of revision once in twenty years, but allowed it sooner, if the people approved. An act was accordingly passed in January, 1867, for an election, which was held April 10, 1867, which returned 34,534 votes *for*, and 24,136 *against* a Convention. The body elected met May 8th, and adjourned August 17th, 1867. An election on the adoption of the Constitution which it prepared, was held September 18, 1867, and gave a return of 27,152 *for*, and 23,036 *against* the Constitution. It was declared officially as adopted, September 27, 1867, and has since remained in force.

CONSTITUTION OF MARYLAND, 1867.

SUMMARY.

ARTICLES.

- Declaration of Rights.
 - I. Elective Franchise.
 - II. Executive Department.
 - III. Legislative Department.
 - IV. Judiciary Department.
 - Part I. General Provisions.
 - II. Court of Appeals.
 - III. Circuit Courts.
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 - V. Orphan's Courts.
 - VI. Justices of the Peace.
 - VII. Sheriffs.
 - V. Attorney General and State's Attorneys.
 - VI. Treasury Department.
 - VII. Sundry officers.
 - VIII. Education.
 - IX. Militia and Military Affairs.
 - X. Labor and Agriculture.
 - XI. City of Baltimore.
 - XII. Public Works.
 - XIII. New Counties.
 - XIV. Amendments to the Constitution.
 - XV. Miscellaneous.
- Vote on the Constitution.

DECLARATION OF RIGHTS.

PREAMBLE.

ARTICLES.

1. Origin of government—its object—right to alter and abolish it.
2. Constitution, Laws and Treaties of United States supreme—the Judges and people of State bound thereby.
3. Powers not delegated to the United States by its Constitution reserved to State.
4. Right of people to regulate their internal government.
5. Common law of England—trial by jury—English Statutes in force in 1776—acts of Colonial Assembly—charter rights.
6. Accountability of officers—right of people to reform old or establish new government—doctrine of non-resistance to arbitrary power slavish.
7. Right of people to participate in Legislature—elections should be frequent—every white male citizen having qualifications should have right to vote.
8. Distinct departments of government—not to be exercised by same person.
9. No suspension of laws allowed but by Legislature.
10. Freedom of legislative debate not to be impeached.
11. Seat of government at Annapolis.
12. The Legislature should be frequently convened.
13. Right of petition.
14. No tax burden or fees to be levied but by consent of Legislature.
15. Poll taxes not allowed—paupers not to be assessed—every person holding property should aid in support of government—fines and taxes may be laid for the good of government.
16. Sanguinary laws and cruel punishments forbidden.
17. Retrospective laws unjust—*ex post facto* laws and retrospective oaths or restrictions not lawful.

ARTICLES.

18. No law to attain particular persons of treason or felony to be passed.
19. Right of justice.
20. Trial of facts where they arise.
21. Rights of persons accused of crime—counsel—witnesses—jury trial.
22. Witness against one's self not required.
23. Rights not to be taken away but by law.
24. Slavery not to be re-established—compensation due from United States.
25. Excessive bail and fines—cruel punishments.
26. Security against unlawful seizures and searches.
27. Conviction not to work corruption of blood or forfeiture.
28. Militia the natural defense of a free government.
29. Standing armies dangerous to liberty—not to be raised but by Legislature.
30. Military to be subordinate to civil power.
31. Quartering of soldiers.
32. Martial law restricted to military and naval service.
33. Independency of Judges—their removal—not to hold other offices nor receive fees.
34. Rotation in offices of Executive Departments.
35. No man to hold more than one office—no officer of State to hold under United States.
36. Religious freedom—witnesses must believe in a God, and in moral accountability for acts.
37. No religious test to be required, except belief in a God.
38. Disqualification of ministers of religion from holding certain property without consent of Legislature.
39. Mode of administering oaths.
40. Liberty of the press.
41. Monopolies not to be allowed.
42. No title of nobility to be granted.
43. Legislature to encourage learning, knowledge, arts, sciences, etc.
44. Constitutions to apply as well in war as in peace.
45. This enumeration of rights not to impair others retained by people.

ARTICLE I. — *Elective Franchise.*

SECTIONS.

1. Elections to be by ballot—qualifications of electors—residence—removals.
2. Disqualifications from voting.
3. Bribery at elections—penalties.
4. Punishment for illegal voting.
5. Registration of voters.
6. Oath of office.
7. New election in case of refusal to take oath.

ARTICLE II. — *Executive Department.*

1. Executive power vested in Governor—term—first election.
2. Election of Governor—how returned.
3. Plurality to elect—when to qualify.
4. Case of equal vote—House to decide questions of eligibility—vote *viva voce* and jointly—case of a tie.

SECTIONS.

5. Qualifications of Governor.
6. Case of death or resignation, or his removal, etc.
7. Case of vacancy in recess of General Assembly—impeachment.
8. Commander-in-Chief—may call out militia—when to take command.
9. To take care that the laws are executed.
10. Appointing power.
11. Appointments during recess of Senate.
12. Persons after rejection not to be appointed.
13. Time of nomination to Senate of civil officers—terms, when to begin.
14. Vacancies during session of Senate.
15. Courts martial—removal of militia officers.
16. Extra sessions of Legislature or of Senate may be called—when to be called at other place than seat of government.
17. Veto power—three-fifths of both Houses may pass bills over veto—yeas and nays—veto within six days.
18. Governor to examine Treasurer's and Comptroller's accounts—and to review bank and other accounts.
19. Recommendations to Legislature.
20. Pardoning power—notice to be given in newspapers—reports to Legislature.
21. Governor's residence and salary.
22. Secretary of State—how appointed—term—salary—residence.
23. Duties of Secretary of State.

ARTICLE III.—*Legislative Department.*

1. Legislature to consist of two branches—how styled.
2. Election of Senators—term.
3. Representation in House of Delegates until next National census.
4. Basis of representation in House—Legislative Districts in Baltimore city.
5. Governor to arrange the representation in House—proclamation.
6. Election of Delegates—terms.
7. Time of election.
8. Classification of Senators.
9. Qualifications of Senators and Delegates.
10. Persons ineligible to Legislature.
11. Ministers and preachers not to hold certain offices.
12. Defaulters ineligible.
13. Vacancies in Senate or House, how filled.
14. Meetings of Legislature.
15. Compensation of members—not to be paid if absent—mileage—extra sessions.
16. Books not to be purchased for members at public cost.
17. Members not to hold certain offices.
18. Freedom of Legislative debate.
19. Powers of each House—officers—rules—expulsion of members.
20. Quorum—power of minority to compel attendance.
21. To sit with open doors.
22. Journals—yeas and nays, when recorded.
23. Power over persons not members—limit—code.
24. House of Delegates may call witnesses—Grand Inquest of the State—may examine accounts—may call for papers and records—may direct all office bonds to be sued for any breach—joint standing committees—powers—reports upon contracts—abuses in expenditures.
25. Special adjournments limited.
26. Impeachments—how tried.
27. Origin of bills—amendments—not to be introduced in last ten days—passage—yeas and nays.
28. Final passage—joint resolutions to be passed by yeas and nays.

SECTIONS.

29. Style of laws—mode of enactment—laws to embrace but one subject—to be stated in title—laws when revived or amended.
30. Bills to be signed by Governor—where recorded.
31. Laws, when to take effect.
32. No money to be drawn from treasury but by law—contingent fund.
33. Local and special laws not to be passed in certain cases—general laws to be provided.
34. Debts not to be contracted without provision for their payment—credit of State not to be given or loaned—case of internal improvements—limit of public debt—temporary deficiencies.
35. Extra compensation to officers, agents or contractors.
36. Lotteries prohibited.
37. Payment for emancipated slaves prohibited—claims may be made upon United States.
38. Imprisonment for debt not allowed.
39. Banks—conditions—liability of stockholders—books to be open.
40. Private property taken for public use to be paid for.
41. Dueling to disqualify from office.
42. Purity of elections.
43. Property of married women.
44. Exemption of property from sale.
45. Compensation of Clerks and Registers limited.
46. General Assembly may receive land from United States.
47. Contested elections.
48. Corporations to be formed under general laws—drafts of laws to be prepared—commissioners—pay—charters may be repealed.
49. Regulation of elections.
50. Bribery, how punished—evidence—disqualification.
51. Taxation of personal property.
52. Appropriations for private claims.
53. Witnesses not incompetent on account of color.
54. Limit of county debts—how authorized and published.
55. Writ of *habeas corpus* not to be suspended.
56. Laws to execute vested powers.
57. Rate of interest fixed at six per cent—may be changed by law.
58. Foreign corporations to be taxed.
59. Pension system abolished.

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1. Judicial power, how vested—courts of record—seal—Justices of the Peace.
2. Qualifications of Judges.
3. Elections of Judges—term of office—retiring of Judges for inability.
4. Removal for incompetency.
5. Governor to fill vacancies.
6. Judges conservators of the peace.
7. No Judge to sit in case where he is interested or related to either party.
8. Trial without jury—removal of cases—appeals.
9. Officers of court, how appointed—pay—Judges to investigate and report.
10. Clerks to keep records—fees—power of Judges—rules for Clerks.
11. Election returns—plurality votes.
12. Case of equal vote—contested elections—new elections.
13. Style of commissions—grants and writs.

PART II. — COURT OF APPEALS.

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14. Composed of eight Judges — Chief Judge, how designated — Judge for Baltimore City — his duties — jurisdiction — sessions biennially for ten months.
15. Quorum — Judge below not to sit — opinions in three months — hearing at first term.
16. Publication of reports.
17. Clerk of Court of Appeals to be elected — term — removal — vacancy.
18. Rules of appeals — record — practice — costs — reduction of fees — rules of equity.

PART III. — CIRCUIT COURTS.

19. Judicial Districts eight in number.
20. A court to be held in each — style — jurisdiction.
21. Chief Judge and two Associates — residence — case of a tie — terms — intermediate terms — one Judge may sit — special terms.
22. Points reserved to be heard *in banc* — rules therefor — right of appeal not precluded — right not to apply to appeals from Justices of the Peace — nor to certain other cases.
23. Opinions in two months.
24. Salaries not to be diminished.
25. Clerks to be elected — term — removal — vacancies.
26. Deputy Clerks — duties — removal.

PART IV. — COURTS OF BALTIMORE CITY.

27. Six courts — names.
28. Jurisdiction.
29. Jurisdiction of Circuit Courts.
30. Jurisdiction of Criminal Court.
31. Supreme Bench of Baltimore city — term — salary.
32. Assignment of Judges — jurisdiction — case of sickness, absence, etc.
33. General terms — rules to be made — jurisdiction on motions — right of appeal.
34. No appeal on decisions or appeal from Justices of the Peace — test of writs.
35. Quorum of Supreme Bench.
36. Cases pending to be proceeded with.
37. Clerks to be elected by people — terms — salary — perquisites not allowed — vacancy in office of Clerk.
38. Authority of Clerks of Common Pleas and Superior Court.
39. Another court in Baltimore city — re-appointment of jurisdiction of Baltimore courts — Clerk's bonds.

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40. Three Judges to be elected — term — jurisdiction — pay — case of vacancy.
41. Register of Wills — terms — vacancy.

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42. Governor to appoint Justices — Constables, how appointed — removal — terms — jurisdiction.
43. Vacancies, how filled.

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3. Duties — to give opinions when required — to prosecute suits — salary — not allowed perquisites — other counsel not to be employed.
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7. Election of one in each county — term — removal.
8. Returns to be made to Criminal Judges — case of tie.
9. Fees — Deputy in Baltimore city.
10. Qualifications.
11. Vacancy, how filled.
12. To collect money for State — bond.

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2. Comptroller's duties — revenue plans — collection of taxes — delinquent collectors forms of accounts — warrants for money — reports to Legislature.
3. Duties of Treasurer — to receive deposits — banks to give securities — payments — warrants — transfer of bonds — loss of bonds.
4. Treasurer to account to Comptroller and to Legislature.
5. When Comptroller and Treasurer to qualify.
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2. Surveyor — vacancy.
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DECLARATION OF RIGHTS.

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State, for the sure foundation and more permanent security thereof, declare :

ARTICLE 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their form of government, in such manner as they may deem expedient.

ART. 2. The Constitution of the United States, and the laws made, or which shall be made, in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, are, and shall be, the supreme law of the State; and the Judges of this State, and all the people of this State, are and shall be bound thereby; any thing in the Constitution or law of this State to the contrary notwithstanding.

ART. 3. The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof.

ART. 4. That the people of this State have the sole and exclusive right of regulating the internal government and police thereof, as a free, sovereign and independent State.

ART. 5. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the courts of law or equity; and also of all acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his Majesty Charles the First to Cæcilius Calvert, Baron of Baltimore.

ART. 6. That all persons invested with the Legislative or Executive powers of Government are the trustees of the public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old, or establish a new Government: the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

ART. 7. That the right of the people to participate in the Legislature is the best security of liberty and the foundation of all free government; for this purpose, elections ought to be free and frequent; and every white male citizen, having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

ART. 8. That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

ART. 9. That no power of suspending laws or the execution of laws, unless by, or derived from the Legislature, ought to be exercised or allowed.

ART. 10. That freedom of speech and debate, or proceedings in the Legislature, ought not to be impeached in any court of judicature.

ART. 11. That Annapolis be the place of meeting of the Legislature; and the Legislature ought not to be convened or held at any other place but from evident necessity.

ART. 12. That for redress of grievances, and for amending, strengthening and preserving the laws, the Legislature ought to be frequently convened.

ART. 13. That every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner.

ART. 14. That no aid, charge, tax, burden or fees ought to be rated or levied under any pretense, without the consent of the Legislature.

ART. 15. That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the Government; but every person in the State, or person holding property therein, ought to contribute his proportion of public taxes for the support of the Government, according to his actual worth in real or personal property; yet, fines, duties or taxes may properly and justly be imposed, or laid, with a political view, for the good government and benefit of the community.

ART. 16. That sanguinary laws ought to be avoided as far as it is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter.

ART. 17. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore, no *ex post facto* law ought to be made; nor any retrospective oath or restriction be imposed, or required.

ART. 18. That no law to attain particular persons of treason or felony, ought to be made in any case, or at any time, hereafter.

ART. 19. That every man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

ART. 20. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the people.

ART. 21. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge in due time, if required, to prepare for his defense; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 22. That no man ought to be compelled to give evidence against himself in a criminal case.

ART. 23. That no man ought to be taken or imprisoned or dis-seized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land.

ART. 24. That slavery shall not be re-established in this State; but having been abolished, under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States.

ART. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted, by the courts of law.

ART. 26. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 27. That no conviction shall work corruption of blood or forfeiture of estate.

ART. 28. That a well regulated militia is the proper and natural defense of a free Government.

ART. 29. That standing armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the Legislature.

ART. 30. That in all cases, and at all times, the military ought to be under strict subordination to, and control of, the civil power.

ART. 31. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, except in the manner prescribed by law.

ART. 32. That no person except regular soldiers, and marines, and mariners in the service of this State, or militia, when in actual service, ought, in any case, to be subject to, or punishable by martial law.

ART. 33. That the independency and uprightness of Judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore, the Judges shall not be removed, except in the manner, and for the causes, provided in this Constitution. No Judge shall hold any other office, civil or military, or political trust, or employment of any kind, whatsoever, under the Constitution or laws of this State, or of the United States, or any of them; or receive fees, or perquisites of any kind, for the discharge of his official duties.

ART. 34. That a long continuance in the Executive Departments of power or trust is dangerous to liberty; a rotation, therefore, in those Departments is one of the best securities of permanent freedom.

ART. 35. That no person shall hold, at the same time, more than one office of profit, created by the Constitution or Laws of this State; nor shall any person in public trust receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this State.

ART. 36. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; nor ought any person to be compelled to frequent, or maintain, or contribute, unless on contract, to maintain, any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that, under His dispensation, such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

ART. 37. That no religious test ought ever to be required as a qualification for any office of profit or trust in this State, other than a declaration of belief in the existence of God; nor shall the Legislature prescribe any other oath of office than the oath prescribed by this Constitution.

ART. 38. That every gift, sale or devise of land, to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order or denomination, or to, or for the support, use or benefit of, or in trust for, any minister, public teacher or preacher of the gospel, as such, or any religious sect, order or denomination; and every gift or sale of goods, or chattels, to go in succession, or to take place after the death of the seller or donor, to or for such support, use or benefit; and also every devise of goods, or chattels, to or for the support, use or benefit of any minister, public teacher or preacher of the gospel, as such, or any religious sect, order or denomination, without the prior, or subsequent, sanction of the Legislature, shall be void; except always any sale, gift, lease or devise of any quantity of land, not exceeding five acres, for a church, meeting-house, or other house of worship, or parsonage, or for a burying-ground, which shall be im-

proved, enjoyed or used only for such purpose; or such sale, gift, lease, or devise shall be void.

ART. 39. That the manner of administering an oath or affirmation to any person, ought to be such as those of the religious persuasion, profession, or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

ART. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

ART. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

ART. 42. That no title of nobility or hereditary honors ought to be granted in this State.

ART. 43. That the Legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the people.

ART. 44. That the provisions of the Constitution of the United States, and of this State, apply, as well in time of war as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism.

ART. 45. This enumeration of Rights shall not be construed to impair or deny others retained by the people.

ARTICLE I.

ELECTIVE FRANCHISE.

SECTION 1. All elections shall be by ballot; and every white male citizen of the United States, of the age of twenty-one years, or upward, who has been a resident of the State for one year, and of the legislative district of Baltimore city, or of the county, in which he may offer to vote, for six months next preceding the election, shall be entitled to vote, in the ward or election district in which he resides, at all elections hereafter to be held in this State; and, in case any county, or city, shall be so divided as to form portions of different electoral districts, for the election of Representatives in Congress, Senators, Delegates, or other officer, then to entitle a person to vote for such officer, he must have been a resident of that part of the county, or city, which shall form a part of the electoral district, in which he

offers to vote, for six months next preceding the election ; but a person who shall have acquired a residence in such county, or city, entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed, until he shall have acquired a residence in the part of the county, or city, to which he has removed.

§ 2. No person above the age of twenty-one years, convicted of larceny, or other infamous crime, unless pardoned by the Governor, shall ever thereafter be entitled to vote at any election in this State ; and no person under guardianship as a lunatic, or as a person *non compos mentis*, shall be entitled to vote.

§ 3. If any person shall give, or offer to give, directly or indirectly, any bribe, present or reward, or any promise, or any security for the payment, or the delivery of money, or any other thing, to induce any voter to refrain from casting his vote, or to prevent him, in any way, from voting, or to procure a vote for any candidate, or person proposed, or voted for, as elector of President and Vice-President of the United States, or Representative in Congress, or for any office of profit or trust, created by the Constitution or laws of this State, or by the ordinances, or authority of the Mayor and City Council of Baltimore, the person giving, or offering to give, and the person receiving the same, and any person, who gives, or causes to be given, an illegal vote, knowing it to be such, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

§ 4. It shall be the duty of the General Assembly to pass laws to punish, with fine and imprisonment, any person, who shall remove into any election district, or precinct of any ward of the city of Baltimore, not for the purpose of acquiring a *bona fide* residence therein, but for the purpose of voting at an approaching election, or who shall vote in any election district or ward in which he does not reside, except in the case provided for in this Article, or shall, at the same election, vote in more than one election district, or precinct, or shall vote, or offer to vote, in any name not his own, or in place of any other person of the same name, or shall vote in any county, in which he does not reside.

§ 5. The General Assembly shall provide by law for a uniform registration of the names of all the voters in this State, who possess the qualifications prescribed in this Article, which registration shall be conclusive evidence to the Judges of election of the right of every person, thus registered, to vote at any election thereafter held in this State ; but no person shall vote at any election, Federal or State, hereafter to be held in this State, or at any municipal election in the city of Baltimore, unless his name appears in the list of registered voters ;

and until the General Assembly shall hereafter pass an act for the registration of the names of voters, the law in force on the first day of June, in the year eighteen hundred and sixty-seven, in reference thereto, shall be continued in force, except so far as it may be inconsistent with the provisions of this Constitution; and the registry of voters, made in pursuance thereof, may be corrected, as provided in said law; but the names of all persons shall be added to the list of qualified voters by the officers of registration, who have the qualifications prescribed in the first section of this Article, and who are not disqualified under the provisions of the second and third sections thereof.

§ 6. Every person elected, or appointed, to any office of profit or trust, under this Constitution, or under the laws made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath or affirmation: I, ——— do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ———, according to the Constitution and laws of the State; (and, if a Governor, Senator, member of the House of Delegates, or Judge), that I will not directly or indirectly receive the profits or any part of the profits, of any other office during the term of my acting as ———.

§ 7. Every person, hereafter elected, or appointed, to office, in this State, who shall refuse, or neglect, to take the oath or affirmation of office, provided for in the sixth section of this article, shall be considered as having refused to accept the said office; and a new election, or appointment, shall be made, as in case of refusal to accept, or resignation of an office; and any person violating said oath shall, on conviction thereof, in a court of law, in addition to the penalties now, or hereafter, to be imposed by law, be thereafter incapable of holding any office of profit or trust in this State.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive power of the State shall be vested in a Governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified; but the Governor chosen at the first election under this Constitution, shall not enter upon the discharge of the duties of the office until the expiration of

the term for which the present incumbent was elected; unless the said office shall become vacant by death, resignation, removal from the State, or other disqualification of the said incumbent.

§ 2. An election for Governor, under this Constitution, shall be held on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and on the same day and month in every fourth year thereafter, at the place of voting for Delegates to the General Assembly; and every person qualified to vote for Delegates, shall be qualified and entitled to vote for Governor; the election to be held in the same manner as the election of Delegates, and the returns thereof, under seal, to be addressed to the Speaker of the House of Delegates, and inclosed and transmitted to the Secretary of State, and delivered to said Speaker at the commencement of the session of the General Assembly, next ensuing said election.

§ 3. The Speaker of the House of Delegates shall then open the said Returns, in the presence of both Houses; and the person having the highest number of votes, and being constitutionally eligible, shall be the Governor, and shall qualify, in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

§ 4. If two or more persons shall have the highest and an equal number of votes for Governor, one of them shall be chosen Governor by the Senate and House of Delegates; and all questions in relation to the eligibility of Governor, and to the Returns of said election, and to the number and legality of votes therein given, shall be determined by the House of Delegates; and if the person or persons, having the highest number of votes, be ineligible, the Governor shall be chosen by the Senate and House of Delegates. Every election of Governor by the General Assembly shall be determined by a joint majority of the Senate and House of Delegates; and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the vote should again be equal, then the election of Governor shall be determined by lot between those, who shall have the highest and an equal number on the first vote.

§ 5. A person to be eligible to the office of Governor, must have attained the age of thirty years, and must have been for ten years a citizen of the State of Maryland, and for five years next preceding his election, a resident of the State, and, at the time of his election, a qualified voter therein.

§ 6. In case of the death, or resignation of the Governor, or of his removal from the State, or other disqualification, the General Assem-

bly, if in session, or if not, at their next session, shall elect some other qualified person to be Governor for the residue of the term for which the said Governor had been elected.

§ 7. In case of any vacancy in the office of Governor, during the recess of the Legislature, the President of the Senate shall discharge the duties of said office, until a Governor is elected, as herein provided for; and in case of the death or resignation of the said President, or of his removal from the State, or of his refusal to serve, then the duties of said office shall, in like manner, and for the same interval, devolve upon the Speaker of the House of Delegates. And the Legislature may provide by law for the impeachment of the Governor; and in case of his conviction, or his inability, may declare what person shall perform the Executive duties; and for any vacancy in said office not herein provided for, provision may be made by law; and if such vacancy should occur without such provision being made, the Legislature shall be convened by the Secretary of State for the purpose of filling said vacancy.

§ 8. The Governor shall be the Commander-in-Chief of the land and naval forces of the State; and may call out the Militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person, without the consent of the Legislature.

§ 9. He shall take care that the laws are faithfully executed.

§ 10. He shall nominate, and, by and with the advice and consent of the Senate, appoint all civil and military officers of the State, whose appointment, or election, is not otherwise herein provided for; unless a different mode of appointment be prescribed by the law creating the office.

§ 11. In case of any vacancy, during the recess of the Senate, in any office which the Governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force until the end of the next session of the Legislature, or until some other person is appointed to the same office, whichever shall first occur; and the nomination of the person thus appointed, during the recess, or, of some other person in his place, shall be made to the Senate, within thirty days after the next meeting of the Legislature.

§ 12. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate; or, be appointed to the same office during the recess of the Legislature.

§ 13. All civil officers appointed by the Governor and Senate, shall be nominated to the Senate within fifty days from the commencement of each regular session of the Legislature; and their term of

office, except in cases otherwise provided for in this Constitution, shall commence on the first Monday of May next ensuing their appointment, and continue for two years (unless removed from office) and until their successors respectively qualify according to law; but the term of office of the Inspectors of Tobacco shall commence on the first Monday of March next ensuing their appointment.

§ 14. If a vacancy shall occur, during the session of the Senate, in any office which the Governor and Senate have the power to fill, the Governor shall nominate to the Senate before its final adjournment, a proper person to fill said vacancy, unless such vacancy occurs within ten days before the said final adjournment.

§ 15. The Governor may suspend, or arrest any military officer of the State for disobedience of orders, or other military offense; and may remove him in pursuance of the sentence of a court martial; and may remove for incompetency, or misconduct, all civil officers who received appointment from the Executive for a term of years.

§ 16. The Governor shall convene the Legislature, or the Senate alone, on extraordinary occasions; and whenever from the presence of an enemy, or from any other cause, the Seat of Government shall become an unsafe place for the meeting of the Legislature, he may direct their sessions to be held at some other convenient place.

§ 17. To guard against hasty or partial legislation, and encroachments of the Legislative Department upon the co-ordinate Executive and Judicial Departments, every Bill which shall have passed the House of Delegates and the Senate, shall, before it becomes a law, be presented to the Governor of the State; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at large on its Journal, and proceed to reconsider the Bill; if, after such reconsideration, three-fifths of the members elected to that House shall pass the Bill, it shall be sent, with the objections, to the other House, by which it shall likewise be reconsidered, and if passed by three-fifths of the members elected to that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the Bill, shall be entered on the Journal of each House, respectively. If any Bill shall not be returned by the Governor within six days, (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he signed it; unless the General Assembly shall, by adjournment, prevent its return, in which case it shall not be a law.

§ 18. It shall be the duty of the Governor, semi-annually and oftener, if he deem it expedient to examine under oath the Treasurer

and Comptroller of the State on all matters pertaining to their respective offices; and inspect and review their Bank and other Account Books.

§ 19. He shall, from time to time, inform the Legislature of the condition of the State and recommend to their consideration such measures as he may judge necessary and expedient.

§ 20. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases, in which he is prohibited by other Articles of this Constitution; and to remit fines and forfeitures for offenses against the State; but shall not remit the principal, or interest of any debt due the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice, in one or more newspapers, of the application made for it, and of the day on, or after which, his decision will be given; and in every case, in which he exercises this power, he shall report to either branch of the Legislature, whenever required, the petitions, recommendations and reasons, which influenced his decision.

§ 21. The Governor shall reside at the seat of government, and receive for his services an annual salary of four thousand five hundred dollars.

§ 22. A Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall continue in office, unless sooner removed by the Governor, till the end of the official term of the Governor from whom he received his appointment, and receive an annual salary of two thousand dollars, and shall reside at the seat of government; and the office of Private Secretary shall thenceforth cease.

§ 23. The Secretary of State shall carefully keep and preserve a record of all official acts and proceedings, which may at all times be inspected by a Committee of either branch of the Legislature, and he shall perform such other duties as may be prescribed by law, or as may properly belong to his office, together with all clerical duty belonging to the Executive Department.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislature shall consist of two distinct branches; a Senate and a House of Delegates, and shall be styled the General Assembly of Maryland.

§ 2. Each county in the State, and each of the three Legislative Districts of Baltimore city, as they are now, or may hereafter be defined, shall be entitled to one Senator, who shall be elected by the

qualified voters of the counties, and of the Legislative Districts of Baltimore city, respectively, and shall serve for four years from the date of his election, subject to the classification of Senators, hereafter provided for.

§ 3. Until the taking and publishing of the next National census, or until the enumeration of the population of this State, under the authority thereof, the several counties, and the city of Baltimore, shall have representation in the House of Delegates, as follows: Allegany county, five Delegates; Anne Arundel county, three Delegates; Baltimore county, six Delegates; each of the three Legislative Districts of the city of Baltimore, six Delegates; Calvert county, two Delegates; Caroline county, two Delegates; Carroll county, four Delegates; Cecil county, four Delegates; Charles county, two Delegates; Dorchester county, three Delegates; Frederick county, six Delegates; Harford county, four Delegates; Howard county, two Delegates; Kent county, two Delegates; Montgomery county, three Delegates; Prince George's county, three Delegates; Queen Anne's county, two Delegates; Saint Mary's county, two Delegates; Somerset county, three Delegates; Talbot county, two Delegates; Washington county, five Delegates; and Worcester county, three Delegates.

§ 4. As soon as may be after the taking and publishing of the next National census, or after the enumeration of the population of this State, under the authority thereof, there shall be an apportionment of representation in the House of Delegates, to be made on the following basis, to wit: Each of the several counties of the State, having a population of eighteen thousand souls, or less, shall be entitled to two Delegates; and every county, having a population of over eighteen thousand, and less than twenty-eight thousand souls, shall be entitled to three Delegates; and every county, having a population of twenty-eight thousand, and less than forty thousand souls, shall be entitled to four Delegates; and every county, having a population of forty thousand, and less than fifty-five thousand souls, shall be entitled to five Delegates; and every county, having a population of fifty-five thousand souls, and upward, shall be entitled to six Delegates, and no more; and each of the three Legislative Districts of the city of Baltimore shall be entitled to the number of Delegates to which the largest county shall, or may be entitled, under the foregoing apportionment. And the General Assembly shall have power to provide by law, from time to time, for altering and changing the boundaries of the three existing Legislative Districts of the city of Baltimore, so as to make them, as near as may be, of equal population; but said Districts shall always consist of contiguous territory.

§ 5. That immediately after the taking and publishing of the next

National census, or after any State enumeration of population, as aforesaid, it shall be the duty of the Governor, then being, to arrange the representation in said House of Delegates, in accordance with the apportionment herein provided for; and to declare, by proclamation, the number of Delegates, to which each county, and the city of Baltimore, may be entitled, under such apportionment; and after every National census taken thereafter, or after any State enumeration of population, thereafter made, it shall be the duty of the Governor, for the time being, to make similar adjustment of representation, and to declare the same by proclamation, as aforesaid.

§ 6. The members of the House of Delegates shall be elected by the qualified voters of the counties, and the Legislative Districts of Baltimore city, respectively, to serve for two years, from the day of their election.

§ 7. The first election for Senators and Delegates shall take place on the Tuesday next, after the first Monday in the month of November, eighteen hundred and sixty-seven; and the election for Delegates, and as nearly as practicable, for one-half of the Senators, shall be held on the same day, in every second year thereafter.

§ 8. Immediately after the Senate shall have convened, after the first election, under this Constitution, the Senators shall be divided by lot, into two classes, as nearly equal in number as may be; Senators of the first class shall go out of office at the expiration of two years, and Senators shall be elected on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-nine, for the term of four years, to supply their places; so that, after the first election, one-half of the Senators may be chosen every second year. In case the number of Senators be hereafter increased, such classification of the additional Senators shall be made as to preserve, as nearly as may be, an equal number in each class.

§ 9. No person shall [be] eligible as a Senator or Delegate, who at the time of his election, is not a citizen of the State of Maryland, and who has not resided therein, for at least three years, next preceding the day of his election, and the last year thereof, in the county, or in the Legislative District of Baltimore city, which he may be chosen to represent, if such county, or Legislative District of said city, shall have been so long established; and if not, then in the county or city from which, in whole, or in part, the same may have been formed; nor shall any person be eligible as a Senator, unless he shall have attained the age of twenty-five years, nor as a Delegate, unless he shall have attained the age of twenty-one years, at the time of his election.

§ 10. No member of Congress, or person holding any civil, or military office under the United States, shall be eligible as a Senator,

or Delegate; and if any person shall, after his election as Senator or Delegate, be elected to Congress, or be appointed to any office, civil, or military, under the Government of the United States, his acceptance thereof, shall vacate his seat.

§ 11. No Minister or Preacher of the Gospel, or of any religious creed, or denomination, and no person holding any civil office of profit, or trust under this State, except Justices of the Peace, shall be eligible as Senator, or Delegate.

§ 12. No collector, receiver, or holder of public money shall be eligible as Senator or Delegate, or to any office of profit, or trust, under this State, until he shall have accounted for, and paid into the treasury all sums on the books thereof charged to, and due by him.

§ 13. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county, or city, for which he shall have been elected, of any person, who shall have been chosen as a Delegate, or Senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the Speaker of the House of Delegates, or President of the Senate, as the case may be, for the election of another person in his place, of which election, not less than ten days' notice shall be given, exclusive of the day of the publication of the notice, and of the day of election; and, if during the recess of the Legislature, and more than ten days before its termination, such death shall occur, or such resignation, refusal to act, or disqualification be communicated, in writing to the Governor by the person, so resigning, refusing, or disqualified, it shall be the duty of the Governor to issue a warrant of election to supply the vacancy thus created, in the same manner, the said Speaker, or President, might have done, during the session of the General Assembly: *Provided, however,* That unless a meeting of the General Assembly may intervene, the election, thus ordered to fill such vacancy, shall be held on the day of the ensuing election for Delegates and Senators.

§ 14. The General Assembly shall meet on the first Wednesday of January, eighteen hundred and sixty-eight, and on the same day in every second year thereafter, and at no other time, unless convened by proclamation of the Governor.

§ 15. The General Assembly may continue its session so long as, in its judgment the public interest may require, for a period not longer than ninety days; and each member thereof, shall receive a compensation of five dollars per diem, for every day he shall attend the session; but not for such days as he may be absent, unless absent on account of sickness, or by leave of the House of which he is a member; and he shall also receive such mileage as may be allowed by law, not exceeding twenty cents per mile; and the presiding officer of

each House shall receive an additional compensation of three dollars per day. When the General Assembly shall be convened by proclamation of the Governor, the session shall not continue longer than thirty days; and, in such case, the compensation shall be the same as herein prescribed.

§ 16. No book, or other printed matter, not appertaining to the business of the session, shall be purchased, or subscribed for, for the use of the members of the General Assembly, or be distributed among them, at the public expense.

§ 17. No Senator or Delegate, after qualifying as such, notwithstanding he may thereafter resign, shall during the whole period of time for which he was elected, be eligible to any office, which shall have been created, or the salary, or profits of which shall have been increased, during such term.

§ 18. No Senator, or Delegate shall be liable in any civil action, or criminal prosecution, whatever, for words spoken in debate.

§ 19. Each House shall be judge of the qualifications and elections of its members, as prescribed by the Constitution and laws of the State; shall appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behavior, and with the consent of two-thirds of its whole number of members elected, expel a member; but no member shall be expelled a second time for the same offense.

§ 20. A majority of the whole number of members elected to each House shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each House may prescribe.

§ 21. The doors of each House, and of the Committee of the Whole, shall be open, except when the business is such as ought to be kept secret.

§ 22. Each House shall keep a journal of its proceedings and cause the same to be published. The yeas and nays of members on any question shall, at the call of any five of them in the House of Delegates, or one in the Senate, be entered on the journal.

§ 23. Each House may punish by imprisonment, during the session of the General Assembly, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the execution of their duties; provided, such imprisonment shall not, at any one time, exceed ten days.

§ 24. The House of Delegates may inquire, on the oath of witnesses, into all complaints, grievances and offenses, as the grand inquest of

the State, and may commit any person for any crime, to the public jail, there to remain until discharged by due course of law. They may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, and appoint Auditors to state and adjust the same. They may call for all public, or official papers and records, and send for persons, whom they may judge necessary, in the course of their inquiries, concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State, to be sued for any breach thereof; and with the view to the more certain prevention, or correction of the abuses in the expenditure of the money of the State, the General Assembly shall create, at every session thereof, a Joint Standing Committee of the Senate and House of Delegates, who shall have power to send for persons, and examine them on oath, and call for public, or official papers and records, and whose duty it shall be to examine and report upon all contracts made for printing, stationery, and purchases for the public offices, and the library, and all expenditures therein, and upon all matters of alleged abuse in expenditures, to which their attention may be called by resolution of either House of the General Assembly.

§ 25. Neither House shall, without the consent of the other, adjourn for more than three days, at any one time, nor adjourn to any other place, than that in which the House shall be sitting, without the concurrent vote of two-thirds of the members present.

§ 26. The House of Delegates shall have the sole power of impeachment in all cases; but a majority of all the members elected must concur in the impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be on oath, or affirmation, to do justice according to the law and the evidence; but no person shall be convicted without the concurrence of two-thirds of all the Senators elected.

§ 27. Any bill may originate in either House of the General Assembly, and be altered, amended, or rejected by the other; but no bill shall originate in either House during the last ten days of the session, unless two-thirds of the members elected thereto shall so determine by yeas and nays; nor shall any bill become a law, until it be read on three different days of the session in each House, unless two-thirds of the members elected to the House, where such bill is pending, shall so determine by yeas and nays; and no bill shall be read a third time until it shall have been actually engrossed for a third reading.

§ 28. No bill shall become a law unless it be passed in each House by a majority of the whole number of members elected, and on its final passage, the yeas and nays be recorded; nor shall any resolution, requiring the action of both Houses, be passed except in the same manner.

§ 29. The style of all laws of this State shall be, "Be it enacted by the General Assembly of Maryland:" and all laws shall be passed by original bill; and every law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; and no law, or section of a law, shall be revived, or amended by reference to its title, or section only; nor shall any law be construed by reason of its title, to grant powers or confer rights which are not expressly contained in the body of the act; and it shall be the duty of the General Assembly, in amending any article, or section of the Code of Laws of this State, to enact the same, as the said article, or section would read when amended. And whenever the General Assembly, shall enact any public general law, not amendatory of any section, or article in the said Code, it shall be the duty of the General Assembly to enact the same, in articles and sections, in the same manner, as the Code is arranged, and to provide for the publication of all additions and alterations, which may be made to the said Code.

§ 30. Every bill, when passed by the General Assembly, and sealed with the Great Seal, shall be presented to the Governor, who, if he approves it, shall sign the same in the presence of the presiding officers and chief clerks of the Senate and House of Delegates. Every law shall be recorded in the office of the Court of Appeals, and in due time, be printed, published and certified under the Great Seal, to the several courts, in the same manner as has been heretofore usual in this State.

§ 31. No law passed by the General Assembly shall take effect, until the first day of June, next after the session, at which it may be passed, unless it be otherwise expressly declared therein.

§ 32. No money shall be drawn from the treasury of the State, by any order or resolution, nor except in accordance with an appropriation by law, and every such law shall distinctly specify the sum appropriated, and the object, to which it shall be applied: *Provided*, That nothing herein contained shall prevent the General Assembly from placing a contingent fund at the disposal of the Executive, who shall report to the General Assembly, at each session, the amount expended, and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money, shall be attached to, and published with the laws, after each regular session of the General Assembly.

§ 33. The General Assembly shall not pass local, or special laws, in any of the following enumerated cases, viz.: For extending the time for the collection of taxes; granting divorces; changing the name of any person; providing for the sale of real estate, belonging to minors or other persons laboring under legal disabilities, by executors, admin-

istrators, guardians or trustees; giving effect to informal, or invalid deeds or wills; refunding money paid into the State treasury, or releasing persons from their debts, or obligations to the State, unless recommended by the Governor, or officers of the Treasury Department. And the General Assembly shall pass no special law, for any case, for which provision has been made, by an existing general law. The General Assembly, at its first session after the adoption of this Constitution, shall pass general laws, providing for the cases enumerated in this section, which are not already adequately provided for, and for all other cases, where a general law can be made applicable.

§ 34. No debt shall be hereafter contracted by the General Assembly, unless such debt shall be authorized by a law, providing for the collection of an annual tax, or taxes, sufficient to pay the interest on such debt, as it falls due; and also, to discharge the principal thereof, within fifteen years from the time of contracting the same; and the taxes, laid for this purpose, shall not be repealed or applied to any other object, until the said debt, and interest thereon, shall be fully discharged. The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the General Assembly have the power, in any mode, to involve the State in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith, or credit of the State; nor make any appropriation therefor, except in aid of the construction of works of internal improvement, in the counties of St. Mary's, Charles and Calvert, which have had no direct advantage, from such works, as have been heretofore aided by the State; and provided, that such aid, advances or appropriations shall not exceed in the aggregate the sum of five hundred thousand dollars. And they shall not use, or appropriate the proceeds of the Internal Improvement Companies, or of the State tax, now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the outstanding debt; but the General Assembly may, without laying a tax, borrow an amount never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defense of the State.

§ 35. No extra compensation shall be granted, or allowed, by the General Assembly, to any public officer, agent, servant or contractor, after the service shall have been rendered, or the contract entered into; nor shall the salary, or compensation of any public officer be increased, or diminished during his term of office.

§ 36. No Lottery Grant shall ever hereafter be authorized by the General Assembly.

§ 37. The General Assembly shall pass no law providing for payment, by this State, for slaves emancipated from servitude in this State; but they shall adopt such measures, as they may deem expedient, to obtain from the United States, compensation for such slaves, and to receive and distribute the same, equitably, to the persons entitled.

§ 38. No person shall be imprisoned for debt.

§ 39. The General Assembly shall grant no Charter for Banking purposes, nor renew any Banking Corporation now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share, or shares of stock in such Banking Institution, for all its debts and liabilities, upon note, bill, or otherwise; the books, papers, and accounts of all Banks shall be open to inspection, under such regulations as may be prescribed by law.

§ 40. The General Assembly shall enact no law authorizing private property, to be taken for public use, without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid, or tendered to the party entitled to such compensation.

§ 41. Any citizen of this State, who shall after the adoption of this Constitution, either in, or out of this State, fight a duel with deadly weapons, or send, or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner, those offending, shall ever thereafter, be incapable of holding any office of profit or trust, under this State, unless relieved from the disability by an act of the Legislature.

§ 42. The General Assembly shall pass laws necessary for the preservation of the purity of elections.

§ 43. The property of the wife shall be protected from the debts of her husband.

§ 44. Laws shall be passed by the General Assembly, to protect from execution a reasonable amount of the property of the debtor, not exceeding in value, the sum of five hundred dollars.

§ 45. The General Assembly shall provide a simple and uniform system of charges in the offices of Clerks of Courts, and Registers of Wills, in the counties of this State, and the city of Baltimore, and for the collection thereof: *Provided*, The amount of compensation to any of the said officers, in the various counties, shall not exceed the sum of three thousand dollars a year, and in the city of Baltimore thirty-five hundred dollars a year, over and above office expenses, and compensation to Assistants: *And provided further*, that such compensation of Clerks, Registers, Assistants and office expenses shall always be paid out of the fees, or receipts of the offices, respectively.

§ 46. The General Assembly shall have power to receive from the

United States, any grant or donation of land, money, or securities for any purpose designated by the United States, and shall administer or distribute the same according to the conditions of the said grant.

§ 47. The General Assembly shall make provisions for all cases of contested elections of any of the officers, not herein provided for.

§ 48. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and except in cases, where no general laws exist, providing for the creation of corporations of the same general character, as the corporation proposed to be created; and any act of incorporation, passed in violation of this section shall be void. And, as soon as practicable, after the adoption of this Constitution, it shall be the duty of the Governor to appoint three persons learned in the law, whose duty it shall be, to prepare drafts of general laws, providing for the creation of corporations, in such cases as may be proper, and for all other cases, where a general law can be made; and for revising and amending, so far as may be necessary or expedient, the general laws which may be in existence on the first day of June, eighteen hundred and sixty-seven, providing for the creation of corporations, and for other purposes; and such drafts of laws shall by said Commissioners, be submitted to the General Assembly, at its first meeting, for its action thereon; and each of said Commissioners shall receive a compensation of five hundred dollars for his services as such Commissioner.

All Charters granted, or adopted, in pursuance of this section, and all Charters heretofore granted and created, subject to repeal or modification, may be altered, from time to time, or be repealed: *Provided*, Nothing herein contained shall be construed to extend to Banks, or the incorporation thereof.

§ 49. The General Assembly shall have power to regulate by law, not inconsistent with this Constitution, all matters which relate to the judges of election, time, place and manner of holding elections in this State, and of making returns thereof.

§ 50. It shall be the duty of the General Assembly, at its first session held after the adoption of this Constitution, to provide by law for the punishment, by fine, or imprisonment in the penitentiary, or both, in the discretion of the Court, of any person, who shall bribe, or attempt to bribe, any Executive or Judicial officer of the State of Maryland, or any member, or officer of the General Assembly of the State of Maryland, or of any Municipal corporation in the State of Maryland, or any Executive officer of such corporation, in order to influence him in the performance of any of his official duties; and also to provide by law for the punishment, by fine, or imprisonment in the penitentiary, or both, in the discretion of the Court, of any of

said officers, or members, who shall demand or receive any bribe, fee, reward, or testimonial, for the performance of his official duties, or for neglecting or failing to perform the same; and, also, to provide by law for compelling any person so bribing, or attempting to bribe, or so demanding, or receiving a bribe, fee, reward, or testimonial, to testify against any person, or persons, who may have committed any of said offenses: *Provided*, That any person so compelled to testify, shall be exempted from trial and punishment for the offense, of which he may have been guilty; and any person, convicted of such offense, shall, as part of the punishment thereof, be forever disfranchised and disqualified from holding any office of trust, or profit, in this State.

§ 51. The personal property of residents of this State, shall be subject to taxation in the county, or city, where the resident *bona fide* resides for the greater part of the year, for which the tax may, or shall be levied, and not elsewhere, except goods and chattels permanently located, which shall be taxed in the city, or county where they are so located.

§ 52. The General Assembly shall appropriate no money out of the Treasury for payment of any private claim against the State exceeding three hundred dollars, unless said claim shall have been first presented to the Comptroller of the Treasury, together with the proofs upon which the same is founded, and reported upon by him.

§ 53. No person shall be incompetent, as a witness, on account of race or color, unless hereafter so declared by act of the General Assembly.

§ 54. No county of this State shall contract any debt or obligation, in the construction of any railroad, canal, or other work of internal improvement, nor give, or loan its credit to, or in aid of any association or corporation, unless authorized by an act of the General Assembly, which shall be published for two months before the next election for members of the House of Delegates, in the newspapers published in such county, and shall also be approved by a majority of all the members elected to each House of the General Assembly at its next session after said election.

§ 55. The General Assembly shall pass no law suspending the privilege of the writ of *habeas corpus*.

§ 56. The General Assembly shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested, by this Constitution, in any department, or office of the Government, and the duties imposed upon them thereby.

§ 57. The legal rate of interest shall be *six per cent per annum*; unless otherwise provided by the General Assembly.

§ 58. The Legislature at its first session after the ratification of this Constitution shall provide by law for State and Municipal taxation upon the revenues accruing from business done in the State by all foreign corporations.

§ 59. The office of State Pension Commissioner is hereby abolished; and the Legislature shall pass no law creating such office, or establishing any general pension system within this State.

ARTICLE IV.

JUDICIARY DEPARTMENT.

PART I.—*General Provisions.*

SECTION 1. The judicial power of this State shall be vested in a Court of Appeals, Circuit Courts, Orphans' Courts, such courts for the city of Baltimore as are hereinafter provided for, and Justices of the Peace; all said courts shall be courts of record, and each shall have a Seal, to be used in the authentication of all process issuing therefrom. The process and official character of Justices of the Peace shall be authenticated, as hath heretofore been practiced in this State, or may hereafter be prescribed by law.

§ 2. The Judges of all of the said courts shall be citizens of the State of Maryland, and qualified voters under this Constitution, and shall have resided therein not less than five years, and not less than six months next preceding their election, or appointment, in the judicial circuit, as the case may be, for which they may be, respectively, elected, or appointed. They shall be not less than thirty years of age at the time of their election, or appointment, and shall be selected from those who have been admitted to practice law in this State, and who are most distinguished for integrity, wisdom and sound legal knowledge.

§ 3. The Judges of the said several courts shall be elected in the counties by the qualified voters in their respective judicial circuits, as hereinafter provided, at the general election to be held on the Tuesday after the first Monday in November next, and in the city of Baltimore, on the fourth Wednesday of October next. Each of the said Judges shall hold his office for the term of fifteen years from the time of his election, and until his successor is elected and qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after; but in case of any Judge, who shall attain the age of seventy years while in office, such Judge may be continued in office by the General Assembly for such further time as they may think fit, not to exceed the term for which he was elected,

by a resolution to be passed at the session next preceding his attaining said age. In case of the inability of any of said Judges to discharge his duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor, to retire said Judge from office.

§ 4. Any Judge shall be removed from office by the Governor, on conviction in a court of law, of incompetency, of willful neglect of duty, misbehavior in office, or any other crime, or on impeachment, according to this Constitution, or the laws of the State; or on the address of the General Assembly, two-thirds of each House concurring in such address, and the accused having been notified of the charges against him, and having had opportunity of making his defense.

§ 5. After the election for Judges, to be held as above mentioned, upon the expiration of the term, or in case of the death, resignation removal, or other disqualification of any Judge, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the next general election for members of the General Assembly, when a successor shall be elected, whose tenure of office shall be the same, as hereinbefore provided; but if the vacancy shall occur in the city of Baltimore, the time of election shall be the fourth Wednesday in October following.

§ 6. All Judges shall, by virtue of their offices, be Conservators of the Peace throughout the State; and no fees, or perquisites, commission, or reward of any kind, shall be allowed to any Judge in this State, besides his annual salary, for the discharge of any judicial duty.

§ 7. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, by affinity or consanguinity, within such degrees as now are, or may hereafter be prescribed by law, or where he shall have been of counsel in the case.

§ 8. The parties to any cause may submit the same to the court for determination, without the aid of a jury; and the Judge, or Judges of any court of this State, except the Court of Appeals, shall order and direct the record of proceedings in any suit, or action, issue, or petition, presentment, or indictment, pending in such court, to be transmitted to some other court (and of a different circuit, if the party applying shall so elect), having jurisdiction in such cases, whenever any party to such cause, or the counsel of any party, shall make a suggestion in writing, supported by the affidavit of such party, or his counsel, or other proper evidence, that the party cannot have a fair or impartial trial in the court, in which such suit, or action, issue, or petition, presentment, or indictment is pending, or when the Judges

of said court shall be disqualified, under the provisions of this Constitution, to sit in any such suit, action, issue, or petition, presentment or indictment; and the General Assembly shall make such modifications of existing law as may be necessary to regulate and give force to this provision.

§ 9. The Judge, or Judges of any court, may appoint such officers for their respective courts as may be found necessary; and such officers of the courts in the city of Baltimore shall be appointed by the Judges of the Supreme Bench of Baltimore city. It shall be the duty of the General Assembly to prescribe, by law, a fixed compensation for all such officers; and said Judge, or Judges shall, from time to time, investigate the expenses, costs and charges of their respective courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action.

§ 10. The Clerks of the several courts, created, or continued by this Constitution, shall have charge and custody of the records and other papers, shall perform all the duties, and be allowed the fees, which appertain to their several offices, as the same now are, or may hereafter be regulated by law. And the office and business of said Clerks, in all their departments, shall be subject to the visitatorial power of the Judges of their respective courts, who shall exercise the same, from time to time, so as to insure the faithful performance of the duties of said officers; and it shall be the duty of the Judges of said courts respectively, to make, from time to time, such rules and regulations as may be necessary and proper for the government of said Clerks, and for the performance of the duties of their offices, which shall have the force of law until repealed, or modified by the General Assembly.

§ 11. The election for Judges, hereinbefore provided, and all elections for Clerks, Registers of Wills, and other officers, provided in this Constitution, except State's Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts of the counties, and the Clerk of the Superior Court of Baltimore city respectively, to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections, the persons having the greatest number of votes, shall be declared to be elected.

§ 12. If, in any case of election for Judges, Clerks of the courts of law, and Registers of Wills, the opposing candidates shall have an equal number of votes, it shall be the duty of the Governor to order a new election; and in case of any contested election, the Governor shall send the returns to the House of Delegates, which shall judge of the election and qualification of the candidates at such election; and if the judgment shall be against the one who has been returned

elected, or the one who has been commissioned by the Governor, the House of Delegates shall order a new election within thirty days.

§ 13. All public commissions and grants shall run thus: "The State of Maryland," etc., and shall be signed by the Governor, with the seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed and signed, as heretofore, or as may hereafter be, provided by law; and all indictments shall conclude, "against the peace, government and dignity of the State."

PART II — *Court of Appeals.*

§ 14. The Court of Appeals shall be composed of the Chief Judges of the first seven of the several Judicial Circuits of the State, and a Judge from the city of Baltimore specially elected thereto, one of whom shall be designated by the Governor, by and with the advice and consent of the Senate, as the Chief Judge: And in all cases, until action by the Senate can be had, the Judge so designated by the Governor, shall act as Chief Judge. The Judge of the Court of Appeals from the city of Baltimore shall be elected by the qualified voters of said city, at the election of Judges to be held therein, as hereinbefore provided; and in addition to his duties, as Judge of the Court of Appeals, shall perform such other duties as the General Assembly shall prescribe. The jurisdiction of said Court of Appeals shall be co-extensive with the limits of the State, and such as now is, or may hereafter be prescribed by law. It shall hold its sessions in the city of Annapolis, on the first Monday in April, and the first Monday in October, of each and every year, or at such other times as the General Assembly may, by law, direct. Its sessions shall continue not less than ten months in the year, if the business before it shall so require; and it shall be competent for the Judges, temporarily, to transfer their sittings elsewhere, upon sufficient cause.

§ 15. Four of said Judges shall constitute a quorum; no cause shall be decided without the concurrence of at least three; but the Judge who heard the cause below, shall not participate in the decision; in every case an opinion, in writing, shall be filed within three months after the argument, or submission of the cause; and the judgment of the court shall be final and conclusive; and all cases shall stand for hearing at the first term after the transmission of the record.

§ 16. Provision shall be made by law for publishing reports of all causes, argued and determined in the Court of Appeals, which the Judges shall designate as proper for publication.

§ 17. There shall be a Clerk of the Court of Appeals, who shall be elected by the legal and qualified voters of the State, who shall hold

his office for six years, and until his successor is duly qualified; he shall be subject to removal by the said court for incompetency, neglect of duty, misdemeanor in office, or such other cause, or causes, as may be prescribed by law; and in case of a vacancy in the office of said Clerk, the Court of Appeals shall appoint a Clerk of said court, who shall hold his office until the election and qualification of his successor, who shall be elected at the next general election for Members of the General Assembly; and the person, so elected, shall hold his office for the term of six years from the time of election.

§ 18. It shall be the duty of the Judges of the Court of Appeals, as soon after their election, under this Constitution, as practicable, to make and publish rules and regulations for the prosecution of appeals to said Appellate Court, whereby they shall prescribe the periods within which appeals may be taken, what part or parts of the proceedings in the court below shall constitute the record on appeal, and the manner in which such appeals shall be brought to hearing or determination, and shall regulate, generally, the practice of said Court of Appeals, so as to prevent delays, and promote brevity in all records and proceedings brought into said court, and to abolish and avoid all unnecessary costs and expenses in the prosecution of appeals therein; and the said Judges shall make such reductions in the fees and expenses of the said court, as they may deem advisable. It shall also be the duty of said Judges of the Court of Appeals, as soon after their election as practicable, to devise, and promulgate by rules, or orders, forms and modes of framing and filing bills, answers, and other proceedings and pleadings in equity; and also forms and modes of taking and obtaining evidence, to be used in equity cases; and to revise and regulate, generally, the practice in the courts of equity of this State, so as to prevent delays, and to promote brevity and conciseness in all pleadings and proceedings therein, and to abolish all unnecessary costs and expenses attending the same. And all rules and regulations, hereby directed to be made, shall, when made, have the force of law, until rescinded, changed, or modified by the said Judges, or the General Assembly.

PART III. — *Circuit Courts.*

§ 19. The State shall be divided into eight Judicial Districts, in manner following, viz.: The counties of Worcester, Somerset and Dorchester shall constitute the first circuit; the counties of Caroline, Talbot, Queen Anne's, Kent and Cecil, the second; the counties of Baltimore and Harford, the third; the counties of Allegany and Washington, the fourth; the counties of Carroll, Howard and Anne Arundel, the fifth; the counties of Montgomery and Frederick, the

sixth; the counties of Prince George's, Charles, Calvert and St. Mary's, the seventh; and Baltimore city, the eighth.

§ 20. A court shall be held in each county of the State, to be styled the Circuit Court for the county, in which it may be held. The said Circuit Courts shall have and exercise, in the respective counties, all the power, authority and jurisdiction, original and appellate, which the present Circuit Courts of this State now have and exercise, or which may hereafter be prescribed by law.

§ 21. For each of the said circuits (excepting the eighth), there shall be a Chief Judge, and two Associate Judges, to be styled Judges of the Circuit Court, to be elected or appointed, as herein provided. And no two of said Associate Judges shall, at the time of their election, or appointment, or during the term, for which they may have been elected, or appointed, reside in the same county. If two or more persons shall be candidates for Associate Judge, in the same county, that one only in said county shall be declared elected, who has the highest number of votes in the circuit. In case any two candidates for Associate Judge, residing in the same county, shall have an equal number of votes, greater than any other candidate for Associate Judge, in the circuit, it shall be the duty of the Governor to order a new election for one Associate Judge; but the person, residing in any other county of the circuit, and who has the next highest number of votes, shall be declared elected. The said Judges shall hold not less than two terms of the Circuit Court in each of the counties, composing their respective circuits, at such times as are now, or may hereafter be prescribed, to which Jurors shall be summoned; and in those counties, where only two such terms are held, two other and intermediate terms, to which Jurors shall not be summoned; they may alter or fix the times for holding any, or all, terms until otherwise prescribed, and shall adopt rules, to the end that all business not requiring the interposition of a jury shall be, as far as practicable, disposed of at said intermediate terms. One Judge, in each of the above circuits, shall constitute a quorum for the transaction of any business; and the said Judges, or any of them, may hold special terms of their courts whenever, in their discretion, the business of the several counties renders such terms necessary.

§ 22. Where any term is held, or trial conducted by less than the whole number of said Circuit Judges, upon the decision, or determination of any point, or question, by the court, it shall be competent to the party, against whom the ruling or decision is made, upon motion, to have the point, or question reserved for the consideration of the three Judges of the circuit, who shall constitute a court in *banc* for such purpose; and the motion for such reservation shall be entered

of record during the sitting, at which such decision may be made; and the several Circuit Courts shall regulate, by rules, the mode and manner of presenting such points, or questions to the court in *banc*, and the decision of the said court in *banc* shall be the effective decision in the premises, and conclusive, as against the party, at whose motion said points, or questions were reserved; but such decision in *banc* shall not preclude the right of appeal, or writ of error to the adverse party, in those cases, civil or criminal, in which appeal, or writ of error to the Court of Appeals may be allowed by law. The right of having questions reserved shall not, however, apply to trials of appeals from judgments of Justices of the Peace, nor to criminal cases below the grade of felony, except when the punishment is confinement in the penitentiary; and this section shall be subject to such provisions as may hereafter be made by law.

§ 23. The Judges of the respective Circuit Courts of this State, and of the courts of Baltimore city, shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.

§ 24. The salary of each Chief Judge, and of the Judge of the Court of Appeals from the city of Baltimore shall be three thousand five hundred dollars, and of each Associate Judge of the Circuit Court, shall be two thousand eight hundred dollars per annum, payable quarterly, and shall not be diminished during his continuance in office.

§ 25. There shall be a Clerk of the Circuit Court for each county, who shall be elected by a plurality of the qualified voters of said county, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible, subject to be removed for willful neglect of duty, or other misdemeanor in office, on conviction in a court of law. In case of a vacancy in the office of Clerk of a Circuit Court, the Judges of said court shall have power to fill such vacancy until the General election for Delegates to the General Assembly, to be held next thereafter, when a successor shall be elected for the term of six years.

§ 26. The said Clerks shall appoint, subject to the confirmation of the Judges of their respective courts, as many deputies under them, as the said Judges shall deem necessary, to perform, together with themselves, the duties of the said office, who shall be removable by the said Judges for incompetency, or neglect of duty, and whose compensation shall be according to existing, or future provisions of the General Assembly.

PART IV. — *Courts of Baltimore City.*

§ 27. There shall be in the eighth Judicial Circuit, six courts, to be styled the Supreme Bench of Baltimore city, the Superior Court of Baltimore city, the Court of Common Pleas, the Baltimore City Court, the Circuit Court of Baltimore city, and the Criminal Court of Baltimore.

§ 28. The Superior Court of Baltimore city, the Court of Common Pleas, and the Baltimore City Court, shall, each, have concurrent jurisdiction in all civil common law cases, and, concurrently, all the jurisdiction which the Superior Court of Baltimore city and the Court of Common Pleas now have, except jurisdiction in equity, and except in applications for the benefit of the Insolvent Laws of Maryland, and in cases of appeal from judgments of Justices of the Peace in said city, whether civil or criminal, or arising under the Ordinances of the Mayor and City Council of Baltimore, of all of which appeal cases the Baltimore City Court shall have exclusive jurisdiction; and the said Court of Common Pleas shall have exclusive jurisdiction in all applications for the benefit of the Insolvent Laws of Maryland, and the supervision and control of the trustees thereof.

§ 29. The Circuit Court of Baltimore city shall have exclusive jurisdiction in equity within the limits of said city, and all such jurisdiction as the present Circuit Court of Baltimore city has; *Provided*, The said court shall not have jurisdiction in applications for the writ of *habeas corpus* in cases of persons charged with criminal offenses.

§ 30. The Criminal Court of Baltimore shall have and exercise all the jurisdiction now held and exercised by the Criminal Court of Baltimore, except in such appeal cases as are herein assigned to the Baltimore City Court.

§ 31. There shall be elected by the legal and qualified voters of said city, at the election, hereinbefore provided for, one Chief Judge and four Associate Judges, who, together, shall constitute the Supreme Bench of Baltimore city, and shall hold their offices for the term of fifteen years, subject to the provisions of this Constitution with regard to the election and qualifications of Judges, and their removal from office, and shall exercise the jurisdiction, hereinafter specified, and shall each receive an annual salary of three thousand five hundred dollars, payable quarterly, which shall not be diminished during their term of office; but authority is hereby given to the Mayor and City Council of Baltimore to pay to each of the said Judges an annual addition of five hundred dollars to their respective salaries; *Provided*,

That the same, being once granted, shall not be diminished, nor increased, during the continuance of said Judges in office.

§ 32. It shall be the duty of the said Supreme Bench of Baltimore city, as soon as the Judges thereof shall be elected and duly qualified, and from time to time, to provide for the holding of each of the aforesaid courts, by the assignment of one, or more of their number to each of the said courts, who may sit either, separately, or together, in the trial of cases; and the said Supreme Bench of Baltimore city may, from time to time, change the said assignment, as circumstances may require, and the public interests may demand; and the Judge or Judges so assigned to the said several courts, shall, when holding the same, have all the powers and exercise all the jurisdiction which may belong to the court so being held; and it shall also be the duty of the said Supreme Bench of Baltimore city, in case of the sickness, absence, or disability of any Judge or Judges, assigned as aforesaid, to provide for the hearing of the cases, or transaction of the business assigned to said Judge, or Judges, as aforesaid, before some one, or more of the Judges of said court.

§ 33. The said Supreme Bench of Baltimore city shall have power, and it shall be its duty, to provide for the holding of as many General Terms as the performance of its duty may require, such General Terms to be held by not less than three Judges; to make all needful rules and regulations for the conduct of business in each of the said courts, during the session thereof, and in vacation, or in Chambers, before any of said Judges; and shall, also, have jurisdiction to hear and determine all motions for a new trial in cases tried in any of said courts, where such motions arise either, on questions of fact, or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law determined by the said Judge, or Judges, while holding said several courts; and the said Supreme Bench of Baltimore city shall make all needful rules and regulations for the hearing before it of all of said matters; and the same right of appeal to the Court of Appeals shall be allowed from the determination of the said court on such matters, as would have been the right of the parties if said matters had been decided by the court in which said cases were tried.

§ 34. No appeal shall lie to the Supreme Bench of Baltimore city from the decision of the Judge, or Judges, holding the Baltimore City Court, in case of appeal from a Justice of the Peace; but the decision by said Judge, or Judges, shall be final; and all writs and other process issued out of either of said courts, requiring attestation, shall be attested in the name of the Chief Judge of the said Supreme Bench of Baltimore city.

§ 35. Three of the Judges of said Supreme Bench of Baltimore city, shall constitute a quorum of said court.

§ 36. All causes depending, at the adoption of this Constitution, in the Superior Court of Baltimore city, the Court of Common Pleas, the Criminal Court of Baltimore, and the Circuit Court of Baltimore city, shall be proceeded in, and prosecuted to final judgment, or decree, in the courts, respectively, of the same name established by this Constitution, except cases belonging to that class, jurisdiction over which is by this Constitution transferred to the Baltimore City Court, all of which shall, together with all cases now pending in the City Court of Baltimore, be proceeded in, and prosecuted to final judgment in said Baltimore City Court.

§ 37. There shall be a Clerk of each of the said courts of Baltimore city, except the Supreme Bench, who shall be elected by the legal and qualified voters of said city, at the election to be held in said city on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible thereto, subject to be removed for willful neglect of duty, or other misdemeanor in office, on conviction in a court of law. The salary of each of the said Clerks shall be thirty-five hundred dollars a year, payable only out of the fees and receipts collected by the Clerks of said city, and they shall be entitled to no other perquisites, or compensation. In case of a vacancy in the office of Clerk of any of said courts, the Judges of said Supreme Bench of Baltimore city shall have power to fill such vacancy until the general election of Delegates to the General Assembly, to be held next thereafter, when a Clerk of said court shall be elected to serve for six years thereafter; and the provisions of this article in relation to the appointment of Deputies, by the Clerks of the Circuit Court in the counties shall apply to the Clerks of the courts in Baltimore city.

§ 38. The Clerk of the Court of Common Pleas shall have authority to issue within said city, all marriage and other licenses required by law, subject to such provisions as are now or may be prescribed by law. The Clerk of the Superior Court of said city shall receive and record all deeds, conveyances, and other papers, which are, or may be required by law to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the law, or equity side of Baltimore County Court, and of the dockets thereof, so far as the same have relation to the city of Baltimore, and shall also discharge the duties of Clerk to the Supreme Bench of Baltimore city, unless otherwise provided by law.

§ 39. The General Assembly shall, whenever it may think the same proper and expedient, provide by law another court for the city of Baltimore, and prescribe its jurisdiction and powers; in which case there shall be elected by the voters of said city, qualified under this Constitution, another Judge of the Supreme Bench of Baltimore city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, receive the same compensation, and have the same powers, as are herein provided for the Judges of said Supreme Bench of Baltimore city; and all of the provisions of this Constitution relating to the assignment of Judges to the courts, now existing in said city, and for the dispatch of business therein, shall apply to the court, for whose creation provision is made by this section. And the General Assembly may re-apportion, change or enlarge the jurisdiction of the several courts in Baltimore city. Until otherwise provided by law, the Clerk of the Superior Court of Baltimore city, of the Court of Common Pleas, of the Circuit Court of Baltimore city, of the Baltimore City Court, and of the Criminal Court of Baltimore, shall each give bond in such penalty as is now prescribed, by law, to be given by the Clerks of the courts, bearing the same names, under the present Constitution.

PART V—ORPHANS' COURTS.

§ 40. The qualified voters of the city of Baltimore, and of the several counties, shall on the Tuesday next after the first Monday in November next, and on the same day in every fourth year thereafter, elect three men to be Judges of the Orphans' Courts of said city and counties, respectively, who shall be citizens of the State, and residents for the twelve months preceding, in the city, or county, for which they may be elected. They shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe. Each of said Judges shall be paid a per diem for the time they are actually in session, to be regulated by law, and to be paid by the said city or county, respectively. In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the same for the residue of the term.

§ 41. There shall be a Register of Wills in each county of the State and the city of Baltimore, to be elected by the legal and qualified votes of said counties and city, respectively, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be re-eligible, and subject at all times to removal for willful neglect of duty, or misdemeanor in office, in the

same manner that the Clerks of the courts are removable. In the event of any vacancy in the office of Register of Wills, said vacancy shall be filled by the Judges of the Orphans' Court, in which such vacancy occurs, until the next general election for Delegates to the General Assembly, when a Register shall be elected to serve for six years thereafter.

PART VI—JUSTICES OF THE PEACE.

§ 42. The Governor, by and with the advice and consent of the Senate, shall appoint such number of Justices of the Peace, and the County Commissioners of the several counties, and the Mayor and City Council of Baltimore, respectively, shall appoint such number of Constables, for the several Election Districts of the counties, and wards of the city of Baltimore, as are now, or may hereafter be prescribed by law; and Justices of the Peace and Constables, so appointed, shall be subject to removal by the Judge, or Judges, having criminal jurisdiction in the county, or city, for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law. The Justices of the Peace and Constables, so appointed, and commissioned, shall be conservators of the peace, shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal, in all cases, from the judgment of Justices of the Peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

§ 43. In the event of a vacancy in the office of a Justice of the Peace, the Governor shall appoint a person to serve, as Justice of the Peace, for the residue of the term; and in case of a vacancy in the office of Constable, the County Commissioners of the county in which the vacancy occurs, or the Mayor and City Council of Baltimore, as the case may be, shall appoint a person to serve as Constable for the residue of the term.

PART VII—SHERIFFS.

§ 44. There shall be elected in each county, and in the city of Baltimore, in every second year, one person, resident in said county or city, above the age of twenty-five years, and at least five years preceding his election, a citizen of this State, to the office of Sheriff. He shall hold his office for two years, and until his successor is duly elected and qualified; shall be ineligible for two years thereafter; shall give such bond, exercise such powers, and perform such duties as now are, or may hereafter be, fixed by law. In case of a vacancy by death, resignation, refusal to serve, or neglect to qualify, or give bond,

or by disqualification, or removal from the county, or city, the Governor shall appoint a person to be Sheriff for the remainder of the official term.

§ 45. Coroners, Elisors, and Notaries Public may be appointed for each county, and the city of Baltimore, in the manner, for the purpose, and with the powers now fixed, or which may hereafter be prescribed by law.

ARTICLE V.

ATTORNEY-GENERAL AND STATE'S ATTORNEYS.

ATTORNEY-GENERAL.

SECTION 1. There shall be an Attorney-General elected by the qualified voters of the State, on general ticket, on the Tuesday next after the first Monday in the month of November, 1867, and on the same day in every fourth year thereafter, who shall hold his office for four years from the time of his election and qualification, and until his successor is elected and qualified, and shall be re-eligible thereto, and shall be subject to removal for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law.

§ 2. All elections for Attorney-General shall be certified to, and returns made thereof by the Clerks of the Circuit Courts of the several counties, and the Clerk of the Superior Court of Baltimore city, to the Governor of the State, whose duty it shall be to decide on the election and qualification of the person returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as Attorney-General, and to administer the oath of office to the person elected.

§ 3. It shall be the duty of the Attorney-General to prosecute and defend on the part of the State, all cases, which at the time of his appointment and qualification, and which thereafter may be depending in the Court of Appeals, or in the Supreme Court of the United States, by or against the State, or wherein the State may be interested; and he shall give his opinion in writing whenever required by the General Assembly, or either branch thereof, the Governor, the Comptroller, the Treasurer, or any State's Attorney, on any legal matter, or subject depending before them, or either of them; and when required by the Governor, or the General Assembly, he shall aid any State's Attorney in prosecuting any suit or action brought by the State in any court of this State; and he shall commence and prosecute, or defend, any suit or action in any of said courts, on the part of the State, which the General Assembly, or the Governor, acting according to law, shall direct to be commenced, prosecuted or defended; and he

shall receive for his services an annual salary of three thousand dollars; but he shall not be entitled to receive any fees, perquisites, or rewards, whatever, in addition to the salary aforesaid, for the performance of any official duty; nor have power to appoint any agent, representative, or deputy, under any circumstances, whatever; nor shall the Governor employ any additional counsel in any case, whatever, unless authorized by the General Assembly.

§ 4. No person shall be eligible to the office of Attorney-General, who is not a citizen of this State, and a qualified voter therein, and has not resided and practiced law in this State for at least ten years.

§ 5. In case of vacancy in the office of Attorney-General, occasioned by death, resignation, removal from the State, or from office, or other disqualification, the said vacancy shall be filled by the Governor, for the residue of the term thus made vacant.

§ 6. It shall be the duty of the Clerk of the Court of Appeals, and of the Commissioner of the Land Office, respectively, whenever a case shall be brought into said court, or office, in which the State is a party, or has interest, immediately to notify the Attorney-General thereof.

THE STATE'S ATTORNEYS.

§ 7. There shall be an Attorney for the State in each county, and the city of Baltimore, to be styled "The State's Attorney," who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday of November in the year eighteen hundred and sixty-seven, and on the same day every fourth year thereafter; and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified; and shall be re-eligible thereto, and be subject to removal therefrom, for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney-General.

§ 8. All elections for the State's Attorney shall be certified to, and returns made thereof, by the Clerks of the said counties and city, to the Judges thereof, having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualification of the persons returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the person elected.

§ 9. The State's Attorney shall perform such duties and receive such fees and commissions as are now, or may hereafter be prescribed by law, and if any State's Attorney shall receive any other fee or reward, than such as is, or may be, allowed by law, he shall, on con-

viction thereof, be removed from office: *Provided*, That the State's Attorney for Baltimore city shall have power to appoint one deputy, at a salary of not more than fifteen hundred dollars per annum, to be paid by the State's Attorney out of the fees of his office, as has heretofore been practiced.

§ 10. No person shall be eligible to the office of State's Attorney, who has not been admitted to practice law in this State, and who has not resided for at least two years, in the county, or city, in which he may be elected.

§ 11. In case of vacancy in the office of State's Attorney, or of his removal from the county, or city, in which he shall have been elected, or, on his conviction, as herein specified, the said vacancy shall be filled by the Judge of the county, or city, respectively, having criminal jurisdiction, in which said vacancy shall occur, for the residue of the term thus made vacant.

§ 12. The State's Attorney, in each county, and the city of Baltimore, shall have authority to collect, and give receipt, in the name of the State, for such sums of money as may be collected by him, and forthwith make return of, and pay over the same, to the proper accounting officer. And the State's Attorney of each county, and the city of Baltimore, before he shall enter on the discharge of his duties, shall execute a bond to the State of Maryland, for the faithful performance of his duties, in the penalty of ten thousand dollars, with two or more sureties, to be approved by the Judge of the court, having criminal jurisdiction, in said counties or city.

ARTICLE VI.

TREASURY DEPARTMENT.

SECTION 1. There shall be a Treasury Department, consisting of a Comptroller, chosen by the qualified electors of the State, at each regular election of members of the House of Delegates, who shall receive an annual salary of two thousand five hundred dollars; and a Treasurer to be appointed by the two Houses of the Legislature, at each regular session thereof, on joint ballot, who shall receive an annual salary of two thousand five hundred dollars; and the term of office of the said Comptroller and Treasurer shall be for two years, and until their successors shall qualify; and neither of the said officers shall be allowed, or receive any fees, commissions, or perquisites of any kind, in addition to his salary, for the performance of any duty or services whatsoever. In case of a vacancy in either of the offices, by death, or otherwise, the Governor, by and with the advice and consent of the Senate, shall fill such vacancy, by appoint-

ment, to continue until another election, or a choice by the Legislature, as the case may be, and until the qualification of the successor. The Comptroller and the Treasurer shall keep their offices at the seat of Government, and shall take such oath, and enter into such bonds for the faithful discharge of their duties, as are now, or may hereafter be, prescribed by law.

§ 2. The Comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditures of the State; superintend and enforce the prompt collection of all taxes and revenue; adjust and settle, on terms prescribed by law, with delinquent collectors and receivers of taxes and State revenue; preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations, prescribed by law, all warrants for money to be paid out of the treasury, in pursuance of appropriations by law; and countersign all checks drawn by the Treasurer upon any bank or banks, in which the moneys of the State may, from time to time, be deposited; prescribe the formalities of the transfer of stock, or other evidence of the State debt, and countersign the same, without which, such evidences shall not be valid; he shall make to the General Assembly full reports of all his proceedings, and of the state of the Treasury Department, within ten days after the commencement of each session; and perform such other duties as shall be prescribed by law.

§ 3. The Treasurer shall receive the moneys of the State, and, until otherwise prescribed by law, deposit them, as soon as received, to the credit of the State, in such bank, or banks, as he may, from time to time, with the approval of the Governor, select, the said bank or banks giving security, satisfactory to the Governor, for the safe keeping and forthcoming, when required, of said deposits, and shall disburse the same for the purposes of the State, according to law, upon warrants drawn by the Comptroller, and on checks countersigned by him, and not otherwise; he shall take receipts for all moneys paid by him; and receipts for moneys received by him shall be indorsed upon warrants, signed by the Comptroller; without which warrants, so signed, no acknowledgment of money received into the treasury shall be valid; and upon warrants, issued by the Comptroller, he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the Sinking Fund. Every bond, certificate, or other evidence of the debt of the State, shall be signed by the Treasurer, and countersigned by the Comptroller; and no new certificate, or other evidence intended to replace another, shall be

issued until the old one shall be delivered to the Treasurer, and authority executed in due form for the transfer of the same filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence canceled; but the Legislature may make provisions for the loss of certificates, or other evidences of the debt, and may prescribe by law the manner in which the Treasurer shall receive and keep the moneys of the State.

§ 4. The Treasurer shall render his accounts, quarterly, to the Comptroller; and shall publish, monthly, in such newspapers as the Governor may direct, an abstract thereof, showing the amount of cash on hand, and the place, or places of deposit thereof; and on the third day of each regular session of the Legislature, he shall submit to the Senate and House of Delegates fair and accurate copies of all accounts by him, from time to time, rendered and settled with the Comptroller. He shall, at all times, submit to the Comptroller the inspection of the money in his hands, and perform all other duties that shall be prescribed by law.

§ 5. The Comptroller shall qualify, and enter on the duties of his office, on the third Monday of January next succeeding the time of his election, or as soon thereafter as practicable. And the Treasurer shall qualify within one month after his appointment by the Legislature.

§ 6. Whenever during the recess of the Legislature charges shall be preferred to the Governor against the Comptroller or Treasurer, for incompetency, malfeasance in office, willful neglect of duty, or misappropriation of the funds of the State, it shall be the duty of the Governor to forthwith notify the party so charged, and fix a day for a hearing of said charges; and if, from the evidence taken under oath, on said hearing before the Governor, the said allegations shall be sustained, it shall be the duty of the Governor to remove said offending officer, and to appoint another in his place, who shall hold his office for the unexpired term of the officer so removed.

ARTICLE VII.

SUNDRY OFFICERS.

SECTION 1. County Commissioners shall be elected on general ticket of each county, by the qualified voters of the several counties of this State, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, and on the same day in every second year thereafter. Their number in each county, their compensation, powers and duties, shall be such as are now, or may be hereafter, prescribed by law.

§ 2. The qualified voters of each county, and of the city of Baltimore, shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and on the same day in every second year thereafter, elect a Surveyor for each county and the city of Baltimore, respectively, whose term of office shall commence on the first Monday of January next ensuing their election; and whose duties and compensation shall be the same as are now, or may hereafter be prescribed by law. And any vacancy in the office of Surveyor, shall be filled by the Commissioners of the counties, or by the Mayor and City Council of Baltimore, respectively, for the residue of the term.

§ 3. The State Librarian shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office during the term of the Governor, by whom he shall have been appointed, and until his successor shall be appointed and qualified. His salary shall be fifteen hundred dollars a year; and he shall perform such duties as are now, or may hereafter be prescribed by law; and no appropriations shall be made by law, to pay for any Clerk, or assistant to the Librarian. And it shall be the duty of the Legislature, at its first session after the adoption of this Constitution, to pass a law regulating the mode and manner in which the books in the library shall be kept and accounted for by the Librarian, and requiring the Librarian to give a bond, in such penalty as the Legislature may prescribe, for the proper discharge of his duties.

§ 4. There shall be a Commissioner of the Land Office, who shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall hold his office during the term of the Governor, by whom he shall have been appointed, and until his successor shall be appointed and qualified. He shall perform such duties as are now required of the Commissioner of the Land Office, or such as may hereafter be prescribed by law, and shall also be the keeper of the Chancery records. He shall receive a salary of one thousand five hundred dollars per annum, to be paid out of the treasury, and shall charge such fees as are now, or may be hereafter, fixed by law. He shall make a semi-annual report of all the fees of his office, both as Commissioner of the Land Office, and as keeper of the Chancery records, to the Comptroller of the Treasury, and shall pay the same semi-annually into the treasury.

§ 5. The Commissioner of the Land Office shall also, without additional compensation, collect, arrange, classify, have charge of, and safely keep all papers, records, relics, and other memorials connected with the early history of Maryland, not belonging to any other office.

§ 6. The qualified voters of Worcester county shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and every two years thereafter, elect a Wreck Master for said county, whose duties and compensation shall be the same as are now, or may be hereafter, prescribed by law; the term of office of said Wreck Master shall commence on the first Monday of January, next succeeding his election, and a vacancy in said office shall be filled by the County Commissioners of said county for the residue of the term.

ARTICLE VIII.

EDUCATION.

SECTION 1. The General Assembly, at its first session after the adoption of this Constitution, shall by law establish throughout the State a thorough and efficient system of free public schools; and shall provide by taxation, or otherwise, for their maintenance.

§ 2. The system of public schools, as now constituted, shall remain in force until the end of the said first session of the General Assembly, and shall then expire; except so far as adopted, or continued, by the General Assembly.

§ 3. The School Fund of the State shall be kept inviolate, and appropriated only to the purposes of education.

ARTICLE IX.

MILITIA AND MILITARY AFFAIRS.

SECTION 1. The General Assembly shall make, from time to time, such provision for organizing, equipping and disciplining the militia, as the exigency may require, and pass such laws to promote volunteer militia organizations as may afford them effectual encouragement.

§ 2. There shall be an Adjutant-General appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office until the appointment and qualification of his successor, or until removed in pursuance of the sentence of a court-martial. He shall perform such duties, and receive such compensation or emoluments as are now, or may be prescribed by law. He shall discharge the duties of his office at the seat of government, unless absent, under orders, on duty; and no other officer of the general staff of the militia shall receive salary or pay, except when on service, and mustered in with troops.

§ 3. The existing militia law of the State shall expire at the end of the next session of the General Assembly, except so far as it may be re-enacted, subject to the provisions of this article.

ARTICLE X.

LABOR AND AGRICULTURE.

SECTION 1. There shall be a Superintendent of Labor and Agriculture, elected by the qualified voters of this State at the first general election for Delegates to the General Assembly after the adoption of this Constitution, who shall hold his office for the term of four years, and until the election and qualification of his successor.

§ 2. His qualifications shall be the same as those prescribed for the Comptroller; he shall qualify and enter upon the duties of his office on the second Monday of January next, succeeding the time of his election; and a vacancy in the office shall be filled by the Governor for the residue of the term.

§ 3. He shall perform such of the duties now devolved by law upon the Commissioner of Immigration, and the Immigration Agent, as will promote the object, for which those officers were appointed, and such other duties as may be assigned to him by the General Assembly, and shall receive a salary of twenty-five hundred dollars a year; and after his election and qualification, the offices before mentioned shall cease.

§ 4. He shall supervise all the State Inspectors of agricultural products and fertilizers; and from time to time, shall carefully examine and audit their accounts, and prescribe regulations, not inconsistent with law, tending to secure economy and efficiency in the business of their offices. He shall have the supervision of the tobacco warehouses, and all other buildings used for inspection and storage purposes by the State; and may, at the discretion of the Legislature, have the supervision of all public buildings now belonging to, or which may hereafter be erected by the State. He shall frequently inspect such buildings as are committed to his charge, and examine all accounts for labor and materials required for their construction, or repairs.

§ 5. He shall inquire into the undeveloped resources of wealth of the State of Maryland more especially concerning those within the limits of the Chesapeake Bay and its tributaries, which belong to the State, and suggest such plans as may be calculated to render them available as sources of revenue.

§ 6. He shall make detailed reports to every General Assembly within the first week of its session, in reference to each of the subjects committed to his charge, and he shall also report to the Governor, in the recess of the Legislature, all abuses, or irregularities, which he may find to exist in any department of public affairs, with which his office is connected.

§ 7. The office hereby established shall continue for four years from the date of the qualification of the first incumbent thereof; and shall then expire, unless continued by the General Assembly.

ARTICLE XI.

CITY OF BALTIMORE.

SECTION 1. The inhabitants of the City of Baltimore, qualified by law to vote in said city for members of the House of Delegates, shall on the fourth Wednesday of October, eighteen hundred and sixty-seven, and on the same day in every fourth year thereafter, elect a person to be Mayor of the city of Baltimore, who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now or may hereafter be prescribed by law; and the term of whose office shall commence on the first Monday of November succeeding his election, and shall continue for four years, and until his successor shall have qualified; and he shall be ineligible for the term next succeeding that for which he was elected.

§ 2. The City Council of Baltimore shall consist of two Branches, one of which shall be called the First Branch, and the other the Second Branch; and each shall consist of such number of members, having such qualification, receiving such compensation, performing such duties, possessing such powers, holding such terms of office, and elected in such manner, as are now, or may hereafter be prescribed by law.

§ 3. An election for members of the First and Second Branch of the City Council of Baltimore shall be held in the city of Baltimore on the fourth Wednesday of October, eighteen hundred and sixty-seven; and for members of the First Branch on the same day in every year thereafter; and for members of the Second Branch on the same day in every second year thereafter; and the qualification for electors of the members of the City Council shall be the same as those prescribed for the electors of Mayor.

§ 4. The regular sessions of the City Council of Baltimore (which shall be annual), shall commence on the third Monday of January of each year, and shall not continue more than ninety days, exclusive of Sundays; but the Mayor may convene the City Council in extra session whenever, and as often as it may appear to him that the public good may require; but no called, or extra session shall last longer than twenty days, exclusive of Sundays.

§ 5. No person, elected and qualified as Mayor, or as a member of the City Council, shall, during the term for which he was elected, hold any other office of profit or trust, created, or to be created, by the Mayor

and City Council of Baltimore, or by any law relating to the corporation of Baltimore, or hold any emolument or position, the compensation of which shall be paid, directly or indirectly, out of the city treasury; nor shall any such person be interested, directly or indirectly, in any contract, to which the city is a party; nor shall it be lawful for any person, holding any office under the city, to be interested, while holding such office, in any contract to which the city is a party.

§ 6. The Mayor shall, on conviction in a court of law, of willful neglect of duty, or misbehavior in office, be removed from office by the Governor of the State, and a successor shall thereafter be elected as in a case of vacancy.

§ 7. From and after the adoption of this Constitution, no debt (except as hereinafter excepted), shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the city of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the city, nor make any appropriation therefor, unless such debt, or credit be authorized by an act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the city of Baltimore at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place; but the Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the city treasury, or to provide for any emergency arising from the necessity of maintaining the police, or preserving the safety and sanitary condition of the city, and may make due and proper arrangements and agreements for the removal and extension, in whole or in part, of any and all debts and obligations, created according to law before the adoption of this Constitution.

§ 8. All laws and ordinances, now in force, applicable to the city of Baltimore, not inconsistent with this Article, shall be, and they are hereby continued until changed in due course of law.

§ 9. The General Assembly may make such changes in this Article, except in Section seven thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political corporation of Baltimore independent of, or free, from the control which the General Assembly of Maryland has over all such corporations in this State.

ARTICLE XII.

PUBLIC WORKS.

SECTION 1. The Governor, the Comptroller of the Treasury, and the Treasurer, shall constitute the Board of Public Works in this State. They shall keep a journal of their proceedings, and shall hold regular sessions in the city of Annapolis, on the first Wednesday in January, April, July and October, in each year, and oftener, if necessary; at which sessions they shall hear and determine such matters as affect the Public Works of the State, and as the General Assembly may confer upon them the power to decide.

§ 2. They shall exercise a diligent and faithful supervision of all public works in which the State may be interested as stockholder or creditor, and shall represent, and vote the stock of the State of Maryland, in all meetings of the stockholders of the Chesapeake and Ohio Canal; and shall appoint the Directors in every railroad and canal company, in which the State has the legal power to appoint Directors, which said Directors shall represent the State in all meetings of the stockholders of the respective companies, for which they are appointed, or elected. And the President and Directors of the said Chesapeake and Ohio Canal Company shall so regulate the tolls of said company, from time to time, as to produce the largest amount of revenue, and to avoid the injurious effects to said company of rival competitors by other internal improvement companies. They shall require the Directors of all said public works to guard the public interest, and prevent the establishment of tolls which shall discriminate against the interest of the citizens or products of this State, and from time to time, and as often as there shall be any change in the rates of toll on any of the said works, to furnish the said Board of Public Works a schedule of such modified rates of toll, and so adjust them as to promote the agricultural interests of the State; they shall report to the General Assembly at each regular session, and recommend such legislation as they may deem necessary and requisite to promote or protect the interests of the State in the said public works; they shall perform such other duties as may be hereafter prescribed by law; and a majority of them shall be competent to act. The Governor, Comptroller and Treasurer shall receive no additional salary for services rendered by them as members of the Board of Public Works. The provisions of the act of the General Assembly of Maryland, of the year 1867, chapter 359, are hereby declared null and void.

§ 3. The Board of Public Works is hereby authorized to exchange the State's interest as stockholder and creditor in the Baltimore and

Ohio Railroad company for an equal amount of the bonds or registered debt now owing by the State, to the extent only of all the preferred stock of the State on which the State is entitled to only six per cent, interest: *Provided*, Such exchange shall not be made at less than par, nor less than the market value of said stock; and the said Board is authorized subject to such regulations and conditions as the General Assembly may, from time to time, prescribe, to sell the State's interest in the other works of internal improvement, whether as a stockholder or a creditor, and also the State's interest in any banking corporation, receiving in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest: *Provided*, That the interest of the State in the Washington branch of the Baltimore and Ohio Railroad be reserved and excepted from sale; *And provided further*, That no sale or contract of sale of the State's interest in the Chesapeake and Ohio Canal, the Chesapeake and Delaware Canal, and the Susquehanna and Tide-Water Canal companies shall go into effect until the same shall be ratified by the ensuing General Assembly.

ARTICLE XIII.

NEW COUNTIES.

SECTION 1. The General Assembly may provide, by law, for organizing new counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county be changed without the consent of a majority of the legal voters, residing within the district, which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand white inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles.

§ 2. At the election to be held for the adoption, or rejection of this Constitution, in each election district, in those parts of Worcester and Somerset counties, comprised within the following limits, viz.: Beginning at the point where Mason and Dixon's line crosses the channel

of Pocomoke River; thence following said line to the channel of the Nanticoke River; thence with the channel of said river to Tangier Sound, or the intersection of Nanticoke and Wicomico Rivers; thence up the channel of the Wicomico River to the mouth of Wicomico Creek; thence with the channel of said creek and Passerdye Creek to Dashield's, or Disharoon's Mills; thence with the mill-pond of said mills and branch following the middle prong of said branch, to Meadow Bridge, on the road, dividing the counties of Somerset and Worcester, near the southwest corner of the farm of William P. Morris; thence due east to the Pocomoke River; thence with the channel of said river to the beginning, — the Judges of election, in each of said districts, shall receive the ballots of each elector, voting at said election, who has resided for six months, preceding said election within said limits, for or against a new county; and the Return Judges of said election districts shall certify the result of such voting, in the manner, now prescribed by law, to the Governor, who shall by proclamation make known the same; and if a majority of the legal votes, cast within that part of Worcester county, contained within said lines, and also a majority of the legal votes cast within that part of Somerset county, contained within said lines, shall be in favor of a new county, then said parts of Worcester and Somerset counties shall become and constitute a new county, to be called Wicomico county; and Salisbury shall be the county seat. And the inhabitants thereof shall thenceforth have and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties of this State.

§ 3. When said new county shall have been so created, the inhabitants thereof shall cease to have any claim to, or interest in the county buildings and other public property of every description, belonging to said counties of Somerset and Worcester, respectively, and shall be liable for their proportionate shares of the then existing debts and obligations of the said counties, according to the last assessment in said counties, to be ascertained and apportioned by the Circuit Court of Somerset county, as to the debts and obligations of said county, and by the Circuit Court of Worcester county, as to the debts and obligations of said county, on the petition of the County Commissioners of the said counties, respectively; and the property in each part of the said counties, included in said new county, shall be bound only for the shares of the debts or obligations of the county from which it shall be separated; and the inhabitants of said new county shall also pay the county taxes levied upon them at the time of the creation of such new county, as if such new county had not been created; and on the application of twelve citizens of the proposed county of Wicomico, the Surveyor of Worcester county shall run and

locate the line from Meadow Bridge to the Pocomoke river previous to the adoption, or rejection of this Constitution, and at the expense of said petitioners.

§ 4. At the first general election held under this Constitution, the qualified voters of said new county shall be entitled to elect a Senator and two Delegates to the General Assembly, and all such county, or other officers as this Constitution may authorize, or require to be elected by other counties of the State; a notice of such election shall be given by the Sheriffs of Worcester and Somerset counties in the manner now prescribed by law; and in case said new county shall be established, as aforesaid, then the counties of Somerset and Worcester shall be entitled to elect but two Delegates each to the General Assembly.

§ 5. The county of Wicomico, if formed according to the provisions of this Constitution, shall be embraced in the first Judicial Circuit; and the times for holding the courts therein shall be fixed and determined by the General Assembly.

§ 6. The General Assembly, shall pass all such laws as may be necessary more fully to carry into effect the provisions of this Article.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. The General Assembly may propose amendments to this Constitution: *Provided*, That each amendment shall be embraced in a separate bill, embodying the article or section, as the same will stand when amended and passed by three-fifths of all the members elected to each of the two Houses, by yeas and nays, to be entered on the Journals with the proposed Amendment. The bill, or bills, proposing amendment, or amendments, shall be published by order of the Governor, in at least two newspapers in each county, where so many may be published, and where not more than one may be published, then in that newspaper, and in three newspapers published in the city of Baltimore, one of which shall be in the German language, once a week, for at least three months preceding the next ensuing general election, at which the said proposed amendment, or amendments shall be submitted, in a form to be prescribed by the General Assembly, to the qualified voters of the State for adoption or rejection. The votes cast for and against said proposed amendment, or amendments, severally, shall be returned to the Governor, in the manner prescribed in other cases, and if it shall appear to the Governor that a majority of the votes cast at said election on said amendment, or amendments, severally, were cast in favor thereof, the Governor shall,

by his proclamation, declare the said amendment, or amendments, having received said majority of votes, to have been adopted by the people of Maryland as part of the Constitution thereof, and thenceforth said amendment, or amendments shall be part of the said Constitution. When two or more amendments shall be submitted, in manner aforesaid, to the voters of this State at the same election, they shall be so submitted as that each amendment shall be voted on separately.

§ 2. It shall be the duty of the General Assembly to provide by law for taking, at the general election to be held in the year eighteen hundred and eighty-seven, and every twenty years thereafter, the sense of the people in regard to calling a Convention for altering this Constitution; and if a majority of voters at such election or elections shall vote for a Convention, the General Assembly, at its next session, shall provide by law for the assembling of such Convention, and for the election of Delegates thereto. Each county, and Legislative District of the city of Baltimore, shall have in such Convention a number of Delegates equal to its representation in both Houses at the time at which the Convention is called. But any Constitution, or change, or amendment of the existing Constitution, which may be adopted by such Convention, shall be submitted to the voters of this State, and shall have no effect unless the same shall have been adopted by a majority of the voters voting thereon.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Every person holding any office created by, or existing under the Constitution or laws of the State (except Justices of the Peace, Constables and Coroners), or holding any appointment under any court of this State, whose pay, or compensation is derived from fees, or moneys coming into his hands for the discharge of his official duties, or, in any way, growing out of, or connected with his office, shall keep a book in which shall be entered every sum, or sums, of money received by him, or on his account, as a payment, or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer, by whom it is directed to be kept, shall be returned yearly to the Comptroller of the State for his inspection, and that of the General Assembly of the State, to which the Comptroller shall, at each regular session thereof, make a report showing what officers have complied with this section; and each of the said officers, when the amount received by him for the year shall exceed the sum which he is, by law entitled to retain, as

his salary, or compensation for the discharge of his duties, and for the expenses of his office, shall yearly pay over to the Treasurer of the State the amount of such excess, subject to such disposition thereof as the General Assembly may direct; if any of such officers shall fail to comply with the requisitions of this section for the period of thirty days after the expiration of each and every year of his office, such officer shall be deemed to have vacated his office, and the Governor shall declare the same vacant, and the vacancy therein shall be filled as in case of vacancy for any other cause, and such officer shall be subject to suit by the State for the amount that ought to be paid into the treasury; and no person holding any office created by, or existing under this Constitution, or laws of the State, or holding any appointment, under any court in this State, shall receive more than three thousand dollars a year as a compensation for the discharge of his official duties, except in cases specially provided in this Constitution.

§ 2. The several courts existing in this State at the time of the adoption of this Constitution, shall, until superseded under its provisions, continue with like powers and jurisdiction, and in the exercise thereof, both at law and in equity, in all respects, as if this Constitution had not been adopted; and when said courts shall be so superseded, all causes, then depending in said courts, shall pass into the jurisdiction of the several courts, by which they may, [be], respectively, superseded.

§ 3. The Governor, and all officers, civil and military, now holding office under this State, whether by election, or appointment, shall continue to hold, exercise and discharge the duties of their offices (unless inconsistent with, or otherwise provided in this Constitution) until they shall be superseded, under its provisions, and until their successors shall be duly qualified.

§ 4. If at any election directed by this Constitution, any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered by the Governor, except in cases specially provided for by this Constitution.

§ 5. In the trial of all criminal cases, the jury shall be the Judges of law, as well as of fact.

§ 6. The right of trial by jury of all issues of fact in civil proceedings in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

§ 7. All general elections in this State shall be held on the Tuesday next after the first Monday in the month of November, in the year in which they shall occur; and the first election of all officers, who,

under this Constitution, are required to be elected by the people, shall, except in cases herein specially provided for, be held on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven.

§ 8. The Sheriffs of the several counties of this State, and of the city of Baltimore, shall give notice of the several elections authorized by this Constitution, in the manner prescribed by existing laws for elections to be held in this State, until said laws shall be changed.

§ 9. The term of office of all Judges and other officers, for whose election provision is made by this Constitution, shall except in cases otherwise expressly provided herein, commence from the time of their election; and all such officers shall qualify as soon after their election as practicable, and shall enter upon the duties of their respective offices immediately upon their qualification; and the term of office of the State Librarian and of the Commissioner of the Land Office shall commence from the time of their appointment.

§ 10. Any officer elected or appointed in pursuance of the provisions of this Constitution, may qualify, either according to the existing provisions of law, in relation to officers under the present Constitution, or before the Governor of the State, or before any Clerk of any court of record in any part of the State; but in case an officer shall qualify out of the county, in which he resides, an official copy of his oath shall be filed and recorded in the Clerk's office of the Circuit Court of the county in which he may reside, or in the Clerk's office of the Superior Court of the city of Baltimore, if he shall reside therein.

VOTE ON THE CONSTITUTION.

For the purpose of ascertaining the sense of the people of this State, in regard to the adoption, or rejection of this Constitution, the Governor shall issue his proclamation within five days after the adjournment of this Convention, directed to the Sheriffs of the city of Baltimore, and of the several counties of this State, commanding them to give notice, in the manner now prescribed by law, in reference to the election of members of the House of Delegates, that an election for the adoption or rejection of this Constitution, will be held in the city of Baltimore, and in the several counties of this State, on Wednesday, the eighteenth day of September, in the year eighteen hundred and sixty-seven, at the usual places of holding elections for members of the House of Delegates in said city and counties. At the said election the vote shall be by ballot, and upon each ballot, there shall be written, or printed, the words "For the Constitution," or "Against the Constitution," as the voter may elect; and the provisions of the laws of this State, relating to the holding of general elec-

tions for members of the House of Delegates, shall, in all respects, apply to, and regulate the holding of the said election. It shall be the duty of the Judges of election, in said city, and in the several counties of the State, to receive, accurately count, and duly return the number of ballots, so cast for, or against the adoption of this Constitution, as well as any blank ballots, which may be cast, to the several Clerks of the Circuit Courts of this State, and to the Clerk of the Superior Court of Baltimore city, in the manner now prescribed by law, in reference to the election of members of the House of Delegates, and duplicates thereof directly to the Governor; and the several Clerks aforesaid, shall return to the Governor, within ten days after said election, the number of ballots cast for or against the Constitution, and the number of blank ballots; and the Governor, upon receiving the returns, and ascertaining the aggregate vote throughout the State, shall, by his proclamation, make known the same; and if a majority of the votes cast shall be for the adoption of this Constitution, it shall go into effect on Saturday, the fifth day of October, eighteen hundred and sixty-seven.

Done, in Convention, the seventeenth day of August, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States, the ninety-second.

RICHARD B. CARMICHAEL,

President of the Convention.

Attest:

MILTON Y. KIDD, *Secretary.*

MEMBERS OF THE CONVENTION.

Alleghany County.

Thomas Perry,
Alfred Spates,
William Walsh,
J. Philip Roman,
Jacob Hoblitzell,
Thomas J. McKaig.

Anne Arundel County.

James R. Howison,
Thomas I. Hall,
E. G. Kilbourn,
Luther Giddings.

Baltimore City—1st Legislative District.

Lindsay H. Reynolds,
Ezra Whitman,
John H. Barnes,
Isaac S. George,
Joshua Vansant,
Edward F. Flaherty,
James A. Henderson.

Baltimore City—2d Legislative District.

George M. Gill,
George Wm. Brown,
Bernard Carter,
Albert Ritchie,
Henry F. Garey,
George W. Dobbin,
J. Hall Pleasants.

Baltimore City—3d Legislative District.

James R. Brewer,
John Ferry,
J. Montgomery Peters,
John Franck,
Jos. P. Merryman,
I. M. Denson,
Walter S. Wilkinson.

Baltimore County.

Charles A. Buchanan,
John Wethered,

Ephraim Bell,
Anthony Kennedy,
Samuel W. Starr,
Charles H. Nicolai,
Robert C. Barry.

Calvert County.

John Parran,
Charles S. Parran,
John F. Ireland.

Caroline County.

R. E. Hardcastle,
Charles E. Tarr,
Tilghman H. Hubbard,
W. H. Watkins.

Carroll County.

John K. Longwell,
George W. Manro,
Sterling Galt,
Benjamin W. Bennett,
Thomas F. Cover,
William N. Hayden.

Cecil County.

Benjamin B. Chambers,
George R. Howard,
James B. Groome,
James O. McCormick,
Eli Cosgrove.

Charles County.

Walter Mitchell,
Vivian Brent,
John T. Stoddert.

Dorchester County.

James Wallace,
Wm. T. Goldsborough,
George E. Austin,
Levin Hodson.

Frederick County.

William P. Maulsby,
Frederick J. Nelson,
Harvy W. Dorsey,
Outerbridge Horsey,
William S. McPherson,
John B. Thomas,
Dewitt C. Johnson.

Harford County.

Henry D. Farnandis,
Henry W. Archer,
John Evans,
Evans S. Rogers,
Henry A. Silver.

Howard County.

Wm. M. Merrick,

James Mackubin,
Henry O. Devries,
James Morris.

Kent County.

Joseph A. Wickes,
Richard W. Ringgold,
C. H. B. Massey,
Wm. Janvier.

Montgomery County.

Greenbury M. Watkins
Nicholas Brewer,
Samuel Riggs, of R.,
Washington Duvall.

Prince George County.

John F. Lee,
John B. Brooke,
Kendall Moxbury,
Elbert G. Emack.

Queen Anne's County.

Richard B. Carmichael,
Thomas J. Keating,
Washington Finley,
Stephen J. Bradbury.

St. Mary's County.

Robert Ford,
John F. Dent,
Baker A. Jamison.

Somerset County.

Purnell Toadvine,
Thomas F. J. Rider,
James L. Horsey,
Isaac D. Jones,
Henry Page.

Talbot County.

William Goldsborough,
Richard C. Hollyday,
Henry E. Bateman,
Ormond Hammond.

Washington County.

Andrew K. Lyester,
Richard H. Alvey,
Joseph Murray,
S. S. Cunningham,
William Motter,
George Pole.

Worcester County.

J. Hopkins Tarr,
Littlejohn P. Franklin,
Thomas P. Parker,
Samuel S. McMaster,
George W. Covington.



MASSACHUSETTS.

In 1606, an association for promoting settlements in America, was incorporated by James I, with two separate Councils of Control, the first known as the London, and the second as the Plymouth Council. Three years after, the former received a new Charter and became known as the South Virginia Company. An illegal and arbitrary exercise of the Royal power excited in time, a spirit of mutual hostility between the King and this company, and in 1619 they proceeded to elect a Treasurer, in direct opposition to the expressed wishes of the monarch. This, and other causes of irritation, led him to encourage the northern company as a check upon its more independent rival.

A patent was accordingly issued by the King in Council, November 3, 1620, for the lands between 40° and 48° north latitude from sea to sea, and incorporating Sir Ferdinand Gorges and his associates, under the title of "The Council established at Plymouth, in the county of Devon, for the planting, ruling, ordering and governing of New England in America." It passed under the great Seal, on the 3d of July following, and constitutes the only civil basis of all the subsequent patents in New England. Owing to the bitter hostility which the first company excited against it, and the rigid enforcement of odious exclusive privileges, the New England company became involved in perplexing difficulties, and it finally surrendered its corporate powers in 1635, having granted parts and subdivided the remainder, by lot, among the associates. This parceling out of their territory was done by the company, upon a commission of survey and distribution, and had reference "as well to the proposition of the adventurers, as to the special service, hazard, exploit, or merit of any person so to be recompensed and advanced or rewarded." Each patentee thus became a Lord Proprietor of his portion, with absolute title, and all the powers of government, which had been vested in the company by the King.

Settlement was begun, 1620, at Plymouth, by a company of people of the sect known as Brownists or Separatists, commonly called, in our histories, "Pilgrims," who had applied to the London or South Virginia company for a grant of land, which, owing to dissensions within that company, and difficulties with the King, they had great difficulty in obtaining, but at length secured. They had been invited by the Dutch to settle upon the Hudson, and at an early period a project of removal to Guiana was proposed, but after full deliberation, it was finally thought best to form a colony by themselves in New England. They at length sailed on the 6th of September (O. S.), 1620, and after a stormy passage of sixty-five days, they discovered land, and recognized it as Cape Cod. After some deliberation among themselves, and with the master of the ship, they resolved to steer southward, to find some place about the Hudson river for their habitation, but within half a day they fell in with dangerous shoals and breakers, which induced them to return again to the Cape, and after exploring the coast for some days, they finally, on the 11th of December (O. S.), landed and began settlement at Plymouth. Before leaving the ship, the Colonists drew up and signed an original Compact, in which, after acknowledging themselves subjects of the Crown of England, they proceeded to declare, that: "Having undertaken, for the glory of God, and the advancement of the Christian faith, and the honor of our King and country, a voyage, to plant the first colony in the northern parts of Virginia, we do, by these presents, solemnly and mutually, in the presence of God,

and of one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid, and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the Colony; unto which we promise all due submission and obedience."

The settlers, finding that they were within the limits of the Plymouth Company's grant, a patent was procured June 1, 1621, from that corporation, in the name of John Pierce and his associates. On the 20th of April, 1620, Pierce clandestinely procured a second patent with more ample powers, under which he intended to establish a monarchical court, and compel the settlers to hold of him as Lord of the Manor. But, after being twice driven back by storms, in great peril of shipwreck, he abandoned his project, and sold his patent to the company for £500.

On the 13th of January, 1629, a third Charter was granted to the Plymouth Colony, in the name of William Bradford, his heirs, associates and assigns, in which the boundaries of the Colony were defined, including the present counties of Plymouth, Bristol and Barnstable,¹ and a tract of land upon the Kennebec River. By this Charter, the Colonists were allowed to make orders, ordinances and constitutions, for the ordering, disposing and governing their persons, and distributing the lands within the limits of the patent. It was never confirmed by the King; but after waiting some years for this, they proceeded, in 1635 or 1636, to define the powers of their officers, and settle on a permanent basis of government. In 1638, they transferred the powers of the whole body of freemen to Deputies, who first assembled in June, 1639. On the 2d of March, 1640, Governor Bradford surrendered to the freemen the patent which had been granted in his name, and the Plymouth Colony remained with a separate and distinct government down to 1691, when it was incorporated with that of Massachusetts.

A patent for Cape Ann, dated January 1, 1623, was granted to the Plymouth people by Lord Sheffield, member of the Council for New England, and this place was used about two years for their fishing stages; but in 1626, the settlement was transferred to Naumkeag, now Salem.

In 1627, an association was formed at Dorchester, in England, for the purpose of planting a colony in New England. On the 19th of March, 1628, a patent was granted to Sir Henry Roswell, Sir John Young, and four others, for all that part of New England, lying between three miles northward of the Merrimack, and three miles southward of Charles River, and from the Atlantic to the South Sea. A Royal Charter was obtained March 4, 1628-29, and under this grant the Colony of Massachusetts Bay was founded. This Charter ordained that the officers of the company should be a Governor, a Deputy Governor, and eighteen Assistants, to be named in the first instance by the Crown, and afterward elected by the corporation. Four stated meetings of all the members were to be held annually, as a General Court, at which freemen might be admitted, and laws and ordinances passed, not repugnant to the laws of England, and the Colonists were declared entitled to all the rights of natural born English subjects.

The first regulations were established, and first officers appointed, by the Company in England, but under a resolution adopted August 29, 1629, the charter, with all its powers of government, was transferred to Massachusetts. The founders of the Massachusetts Colony were of the sect known as Puritans, differing somewhat from those who first settled at Plymouth, but, like them, subjects of religious persecution in the mother country, and in quest of an asylum where they might enjoy their religious faith without molestation.

¹ Hingham belonged to Mass.; a strip from the southern border is now in R. I.

A large emigration soon occurred, and many settlements were formed. The Colonists, being themselves subjects of religious persecution in England, brought with them the idea that uniformity in religion was essential to public tranquillity, and they accordingly ordained, that none but Congregational Church members should enjoy the privileges of freemen, and a spirit of intolerance was observed toward those of other religious faith. The Charter did not provide for the free exercise of religion, or the rights of conscience, nor was there any thing in it to indicate any privilege of worship peculiar to the sect which founded the Colony. But in this, as in other affairs, they appeared to consider themselves as an association possessing the natural rights of men to adopt that form of government which was most agreeable to themselves, and best suited to their wants. While claiming protection under their Charter, against the Royal demands, they did not, however, regard it as furnishing any limit to the fullest exercise of the powers of local government. Ministers of religion were maintained, and public worship provided for by taxes, an attendance upon public worship was required under penalties, and errors of opinion and heresies, were corrected or punished with censure, fines, or banishment, and even with death, in obstinate cases. Not even a single church of the Episcopal order was established, until after the first Charter was vacated. A system of education, by public schools, was established at an early day, and maintained through the Colonial period.

In 1634 a Representative form of government took the place of a General Assembly of all the freemen at the General Court. These Representatives, not exceeding two in number from each town, when assembled in General Court, were fully authorized to establish laws, levy taxes, sell lands, and provide for the general welfare. The choice of officers and election of magistrates was reserved by the freemen.

In 1644 two distinct and independent legislative bodies were created, each having a negative upon the acts of the other, and the concurrence of both being necessary in the enactment of laws. The number of sessions of the General Court, annually, was, in this year, reduced from four to two. New Hampshire was admitted under the government of Massachusetts in 1642, and remained until 1679. In 1652 Maine was also incorporated with Massachusetts, and remained until 1820.

In 1634 a consultation was held respecting a body of laws, adapted to the wants of the Colony, and committees were appointed at sundry times to prepare a Code. The whole were collected, ratified and published in 1648.

The dangers to which the New England Colonies were exposed, from Indian hostilities, led to the formation, in 1643, of a League between the Massachusetts, Plymouth, New Haven and Connecticut Colonies, under the name of "The United Colonies of New England." Rhode Island applied, in 1648, for admission, but was refused, except upon condition of submission to the jurisdiction of Plymouth, which she refused to accept. This Union made the New England Colonies formidable to the Dutch of New Netherland, and respectable in the view of the French in Acadia and Canada, and tended to promote their general welfare during the civil wars in the mother country, and the Indian wars of New England.

A disregard of the acts of trade, enacted by Parliament, led to the appointment of an Inspector of Customs, who arrived at Boston in 1679. The person selected was Edward Randolph. He was received as an enemy to the liberties of the Colony, and his conduct tended to irritation. After an unsuccessful effort, he went back to England, but returned in 1681, and made a vigorous but unsuccessful attempt to execute his office. Charges of high crimes and

misdemeanors were presented to the Committee of Plantations by Randolph, against the Corporation of Massachusetts, in June, 1683, and an order in Council was passed July 26th, for issuing a writ of *quo warranto* against the Charter of Massachusetts, with a declaration from the King, that if the Colony, before prosecution, would make full submission and entire resignation to his pleasure, he would regulate their Charter for his service and their good, and with no further alterations than should be necessary for the support of his government there.

The High Court of Chancery in England, on the 18th of June, 1684, in subservience to the wishes of King James, gave judgment against the Governor and Company of Massachusetts. The Charter being canceled, the King seized the government, and sent over Joseph Dudley, and in 1686, Sir Edmond Andros, as Governor. He established arbitrary and oppressive regulations, under which the inhabitants became exasperated, in proportion as their sufferings increased. At length, on the 18th of April, 1689, a rumor that a massacre was intended by the Governor's guards, kindled an insurrection, in which the people seized the Governor and such others as had been most obnoxious, to the number of about fifty, placed them in confinement, and restored the former magistrates. A Council of Safety was formed, the Charter resumed, an Assembly called, and on the 29th of May the accession of William and Mary to the throne, was proclaimed in Boston, with great ceremony and much rejoicing.

A new Charter was granted October 7, 1691, by which the former Colonies of Plymouth and Massachusetts Bay, the islands off the coast, formerly under the government of New York, the Province of Maine, Acadia, or Nova Scotia, and the territories lying between Maine and Acadia, were united under one government, styled "The Province of the Massachusetts Bay, in New England." All grants to persons, corporations and institutions were confirmed. The power of appointing the Governor, Lieutenant-Governor, Secretary of the Province, and officers of the Court of Admiralty was reserved by the Crown; but the Councillors, twenty-eight in number, were appointed annually by the people's Representatives. The Governor was Commander-in-Chief of the militia, and could call, prorogue, or dissolve the General Court. He had the veto power, and, with the advice of the Council, appointed most civil officers. All laws were to be sent to the King for his approval or rejection; but if not rejected within three years, they became valid. The General Court was vested with general legislative powers; could grant lands, erect courts, levy taxes, and make all wholesome laws and ordinances not inconsistent with the laws of England. Liberty of conscience was secured to all sects, excepting Roman Catholics, and appeals from the judgments of the courts might be made to the King in Privy Council, in England, when the matter in difference exceeded the value of £300. The entire right of Admiralty jurisdiction was reserved to the Crown, and the right of fishing on the coasts was free to all subjects of Great Britain.

At the first session after the grant of the Provincial Charter, an act was passed declaring the general rights and liberties of the people, embracing the general provisions of the Magna Charta upon this subject. The laws, from this time forward, became more liberal, as well as more exact. An explanatory Charter was granted by George I, August 20, 1725, and the Province remained without further change in its form of government, until the revolution. The last General Court, under the authority of the Crown, was dissolved by Governor Gage, June 17, 1775.

A Provincial Congress was first organized in October, 1774, and a second one met in February, 1775. On the 19th of July in that year, a House of Assembly, elected in pursuance of the advice of the Continental Congress, assembled at

Watertown. Assuming that the offices of Governor, Deputy Governor, and Councilors were vacant, from their absenting themselves, and refusing to govern the Province according to their Charter, they proceeded, under the advice of the Continental Congress, on the 28th of July, to choose Councilors to act as one branch of the Legislature, and also to exercise the Executive powers of the government. They agreed to consider the *Constitutional Council*, or the major part of them, as the supreme Executive, and to acquiesce in whatever they should constitutionally do in that capacity.

The Charter was then acknowledged as the civil Constitution of the Province, although courts of justice were suspended, and the authority of that instrument itself mostly superseded by the adoption of a resolution in the Continental Congress, May 15, 1776, declaring that the exercise of every kind of authority under the Crown should be suppressed, and that all the powers of government should be exercised under the authority of the people of the Colonies, for the preservation of internal peace, virtue and good order. This action had been somewhat anticipated by the Legislature of Massachusetts, who, on the 1st of May, passed a resolve, to alter the style of writs and other legal processes, by substituting "The People and Government of Massachusetts," for "George the Third," and in dating official papers with the year of our Lord, without giving that of the reign.

In September, 1776, the Massachusetts Assembly voted to take steps toward the framing of a form of government, and on the 5th of May, 1777, they recommended that the Representatives elected to the next General Court should have full powers, in one body with the Council, to form a Constitution, subject to the approval of the people by a two-third vote. A considerable part of the year was spent in the preparation of a Constitution, but the records of their proceedings are but imperfectly preserved. The journals of the House and Council relate to legislative business only, and while sitting together as a Convention, their system of keeping a record of proceedings was partially neglected. A draft, however, was reported in January, adopted by the General Court February 28, 1778, and submitted to a vote of the people March 4, 1778. But a very partial return was made, and a hundred and twenty towns made no returns whatever. About twelve thousand voted in the whole State, and of these five-sixths were opposed to its adoption. This first plan of a Constitution contained no Bill of Rights or definition of powers. The three Departments recognized as distinct in all our modern State Constitutions were strangely confused, and would have led to much irregularity in practice. In fact, it was but an imperfect contrivance, little suited as the foundation of a State government, although it contained the germ of some of the more valuable fruit secured by the subsequent Constitution.

The Hon. John Adams, in writing upon this subject some years afterward, was unable to assign a reason for this decided condemnation of an instrument which, although imperfect, was much better than none at all, or than the temporary system which necessity had created. The sentiment of opposition was almost unanimous in Boston, and this influence was strongly felt throughout the Commonwealth.

The legality of a Convention elected also for legislative purposes, appears to have been distrusted, and there was at this time a class of persons who appeared adverse to any more permanent form of government, at least for the present. The legislative body itself had become so doubtful on this point, that on the 19th of February, 1779, a majority of that body adopted a resolution, proposing that a vote should be taken by the people upon the two following questions, to test their wishes upon the questions: 1st, As to "whether they choose at this time

to have a new Constitution or form of government made;" and 2d, As to "whether they will empower their Representatives for the next year to vote for the calling of a State Convention for the sole purpose of forming a new Constitution."

In case the first question was answered in the affirmative, two-thirds of the towns having made returns, and of these a large majority for the Convention, one was elected under a resolve passed June 17, 1779, and met in Cambridge on September 1st, the appointed day. Having settled upon the principles upon which the government should be based, namely—that it should be a *Free Republic*,—that it was the essence of a free republic that the people should be governed by *fixed laws of their own making*, and that they should prepare a Declaration of Rights of the people of Massachusetts Bay, they appointed, on the 4th of September, a Committee of thirty persons to prepare a Declaration of Rights and form of government.

On the 6th, they adjourned till October 28th, to allow the Committee time to prepare their report. It met in Boston, and after extended discussion, delegated to a sub-committee of three, consisting of James Bowdoin, Samuel Adams and John Adams, the task of preparing a draft of a Constitution. These agreed to leave it to John Adams, who prepared it, and it was accepted by them with some trifling amendments. The Declaration of Rights was intrusted to John Adams alone, by the General Committee, and it was reported by him, except the third article. In this labor he was guided by the English Constitution, the Virginia Bill of Rights, and general experience. It is now difficult to determine exactly how far changes were made from the first draft, but the frame and essence of the work was preserved without material change. The Committee of thirty, reported to the Convention October 28th, and after discussing the measure until November 11th, they adjourned to January 5th, 1780, but did not proceed to business until the 27th. They finally agreed upon the form of the Constitution, March 2d, and adjourned till the first Wednesday of June, to receive the returns of an election upon the question of its adoption.

The returns showed an approval by more than two-thirds, and on the 16th of June, the Convention declared its acceptance, and resolved that it should go into effect, except for the purpose of making elections, on the last Wednesday of October, 1780. The vote in Boston, while it favored adoption, expressed a desire for several changes, especially in the third article of the Bill of Rights, providing for religious worship, in which they wished for more toleration, and for no degree of compulsion in religious sentiment or worship. They wished the privilege of *habeas corpus* more accurately defined, and more liberty granted, so that citizens should not be subject to confinement on suspicion, and they were in favor of a power in the Governor to order the militia into a neighboring State in time of danger, without an order of the Legislature. But the Convention were not authorized to act upon these amendments, and they were not entertained. The first Legislature, under the Constitution, met at Boston, October 25, 1780.

As required in Article X, Chapter VI, Part II, the question of Convention or no Convention, was submitted to the electors in 1795. The number of votes given in favor of revising the Constitution, was 7,999, and the number against it, 8,325. There were also given, in towns which made no return of the precept, (not included in the above,) 3,387 yeas, and 2,542 nays.

The separation of Maine, in 1820, and a discontent with reference to some features of the Constitution, led to a reference of the question as to whether a Convention should be held. By an act passed June 16, 1820, an election was held in August of that year, which gave a vote of 11,756 *for*, and 6,593 *against*, a

Convention,¹ not a fourth part of the voters attending the election. An election of Delegates was accordingly held, October 16, and the Convention, consisting of about five hundred members, met November 15, 1820, and continued by adjournment until January 9, 1821. It submitted fourteen amendments, of which five were rejected and nine adopted, at an election held April 9, 1821. The articles adopted were officially proclaimed June 5, 1821.

Amendments adopted by the Legislature at two previous sessions, have been ratified by the people in 1831, 1833, 1836, 1840, 1855, 1857, 1859, 1860 and 1863. In 1851, the question of calling another Convention was submitted, but rejected by a vote of 60,972 to 65,846. But in 1852, a similar question was approved by a popular vote of 66,416 to 59,112, and Delegates were accordingly chosen March 7th, to meet May 4th, 1853, in Convention, at Boston, to revise the State Constitution. They met at the appointed time, and continued in session until August 1, 1853, when they closed their labors by submitting a revised Constitution, to be voted for, or against, by the people, under eight different questions; the first embracing the Preamble, Declaration of Rights, and Frame of Government entire, and the others relating to separate articles or paragraphs. The election was held November 14, 1853, and resulted in a disapproval of the whole. Upon the first question, the vote was 63,222 to 68,159, and upon the others the majority against, varied from 401 to 6,683 votes.

In the Constitution, as given in our text, articles of the original Constitution, and articles of amendment thereto, which have become inoperative, by reason of subsequent amendments, are inclosed in brackets, and are printed in smaller type; obsolete *portions* of articles, in some instances confined to a sentence or single word, are also covered by brackets.

¹ It was proposed at first, that *two-thirds* of the citizens should be in favor of a Convention, but this was changed so as to require only a *majority*.

CONSTITUTION OF MASSACHUSETTS, 1780.

SUMMARY.

PREAMBLE.

Part First.—A Declaration of the Rights of the inhabitants of the Commonwealth of Massachusetts.

Part Second.—The Frame of Government.

CHAPTERS.

- I. The Legislative power.
 - § 1. The General Court.
 - § 2. Senate.
 - § 3. House of Representatives.
- II. Executive power.
 - § 1. Governor.
 - § 2. Lieutenant-Governor.
 - § 3. Council, and the manner of settling elections by the Legislature.
 - § 4. Secretary, Treasurer, Commissary, etc.
- III. Judiciary power.
 - § 1. Delegates to Congress.
- V. The University at Cambridge, and encouragement of Literature, etc.
 - § 1. The University.
 - § 2. The encouragement of Literature, etc.
- VI. Oaths and subscriptions—incompatibility of, and exclusion from offices; pecuniary qualifications; commissions; writs; confirmation of laws; *habeas corpus*; the enacting style; continuance of officers; provision for a future revision of the Constitution, etc.

Articles of Amendment.

PREAMBLE

End and object of Government—right to reform and change it—the Body Politic, how formed—a social compact—things covenanted—duty of people in framing a constitution—a form established.

PART I.—A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

ARTICLES.

- I. All men born free and equal—inalienable rights.
- II. Right and duty of public worship—mode to be free—not to disturb others.
- III. [Right to authorize support of Protestant teachers of religion—and to enjoin attendance—proviso—moneys to be applied uniformly—all sects equally protected.—Art. *obsolete*.]
- IV. Right of self-government.
- V. Magistrates and officers accountable to people.
- VI. Exclusive privileges forbidden.
- VII. Right of reforming and changing government.
- VIII. Officers at stated periods to return to private life.
- IX. Elections should be free—electors have a right to be elected to office.

ARTICLES.

- X. Right of protection—every one should aid in the expense of this protection—private property not to be taken for public use without payment.
- XI. Right of justice.
- XII. Rights of persons accused of crime—not to be deprived of rights except by law—trial by jury.
- XIII. Right of trial near the place where crimes happen.
- XIV. Exemption from unlawful seizures and searches.
- XV. Trial by jury in civil cases—exceptions.
- XVI. Liberty of the press.
- XVII. Right to bear arms—standing armies should not be maintained—military to be subordinate to civil power.
- XVIII. Frequent recurrence to fundamental principles, etc., enjoined—duty in choice of officers—accountability of magistrates.
- XIX. Right of assembling, and of petitioning.
- XX. Laws to be suspended only by Legislature.
- XXI. Freedom of legislative debate.
- XXII. Legislature to frequently assemble.
- XXIII. No tax to be levied without consent of the people or their Representatives.
- XXIV. *Ex post facto* laws forbidden.
- XXV. No subject to be declared guilty of treason by Legislature.
- XXVI. Excessive bail or fines—cruel punishments.
- XXVII. Quartering of soldiers.
- XXVIII. Law-martial restricted to army and navy—except militia in service.
- XXIX. Tenure of Judges during good behavior—salaries.
- XXX. Departments of government to be kept distinct.

PART II.—THE FRAME OF GOVERNMENT.

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§ 1.—The General Court.

- I. To consist of two branches—each to have a negative upon the other—when to assemble—how styled.
- II. Bills to be revised by Governor—if vetoed they may be passed by two-thirds present in each House—time of return limited.
- III. General Court may erect judicatories and courts of record.
- IV. May make all needful laws—other powers—valuation of estates.

§ 2.—Senate.

- I. [Election of Senators—*obsolete*.]

ARTICLES.

- II. Senate to be first branch of Legislature—mode of election—who entitled to vote—elections, how held—returns—time of elections.
- III. Meeting of Senate—canvass of returns.
- IV. Senate to judge of election, etc., of its own members—how published—vacancies.
- V. Qualification of Senators.
- VI. Adjournments limited.
- VII. President of Senate—other officers.
- VIII. Senate to be a court for trial of impeachment.
- IX. Quorum.

§ 3.—House of Representatives.

- I. Elected annually, upon principles of equality.
- II. [Basis of representation—*obsolete*.]
House to have power to fine towns neglecting to choose members—mileage.
- III. Elected by written votes—qualifications.
- IV. [Qualifications of electors—*obsolete*.]
- V. [Time of election—*obsolete*.]
- VI. House to have power of impeachment.
- VII. Money bills to originate in House—may be amended by Senate.
- VIII. Adjournments limited.
- IX. [Quorum—*obsolete*.]
- X. Powers of House—to judge of returns—to choose officers—settle rules—power over persons not members—privilege of members.
- XI. Senate to have power in like cases—Governor and Council also—proviso—each House to try and determine all cases of rights and privileges.

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- I. Supreme Executive Magistrate—how styled.
- II. Chosen annually—qualifications.
- III. [Mode of election—*obsolete*.]
- IV. May call Councilors together—Councils to be held.
- V. Powers of Governor with advice of Council—to [prorogue] and call together General Court—when may call at other place than seat of government—[when to dissolve General Court.]
- VI. Power to adjourn General Court in certain case.
- VII. Commander-in-chief—powers as such—not to take militia out of State without leave of General Court.
- VIII. Pardoning power, how vested.
- IX. Officers appointed by Governor and Council.
- X. Election of militia officers—time of elections—appointment of Major-Generals—case of failure to elect—[removal of militia officers]—staff officers and aids—[officers of Continental army]—division and organization of militia.
- XI. Moneys to be paid on warrant of Governor.
- XII. Boards and officers to report to Governor.
- XIII. To have a fixed and honorable salary—salary of Judges—may be increased.

§ 2.—Lieutenant-Governor.

- I. Elected annually—title—qualifications.
- II. President of Council in absence of Governor—members of Council.
- III. To act as Governor in case of vacancy.

§ 3.—Council, and the Manner of Settling Elections by the Legislature.

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- I. Council of nine members—when to meet—quorum—duty.
- II. [Election of Councilors—*obsolete*.]
- III. Rank in civil arrangements.
- IV. [Not more than two to be from one District—*obsolete*.]
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- VI. Executive powers of Council in case of vacancy in office of Governor and Lieutenant-Governor.
- VIII. [Adjournment of elections—order of choosing—*obsolete*.]

§ 4.—Secretary, Treasurer, Commissary, etc.

- I. [To be chosen annually by General Court]—office of Treasurer limited.
- II. Secretary to keep State records—his duties.

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- I. Tenure of offices to be stated in commissions—Judicial officers to hold during good behavior—may be removed.
- II. Justices of Supreme Judicial Court may be required to give opinions in writing.
- III. Justices of Peace to hold seven years.
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- V. [Cases of marriage, divorces, and alimony, and Probate appeals to be heard by Governor and Council—*obsolete*.]

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- I. [Form of oath prescribed—*obsolete*.]
Oath of office—how taken.
- II. Certain State officers to hold no other office—offices that are incompatible—and inconsistent with that of Senator or Representative—persons convicted not eligible.
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- V. Style of writs—how sealed—how tested.
- VI. Certain laws continued.
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- VIII. Style of laws.
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- XI. Constitution to be enrolled on parchment — where deposited.

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- I. Case of bills presented within five days of adjournment, and not approved.
- II. General Court may erect municipal governments — and grant powers not inconsistent with Constitution — proviso in case of towns with 12,000 inhabitants.
- III. Qualifications of voters.
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- V. Election of captains and subalterns of militia.
- VI. Oath of all officers.
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- VIII. Offices not to be held by Governor, etc., or a member of either House — no Judge to be elected a member of Congress.
- IX. Mode of adopting amendments.
- X. Political year — meeting of General Court — when to be dissolved — special meetings — [meetings for choice of certain officers — *obsolete*.] — other provisions respecting elections.
- XI. Modification of Art. III of Bill of Rights.
- XII. [Census and apportionment of representation — *obsolete*.]

ARTICLES.

- XIII. [Census and apportionment of representation — *obsolete*.]
- XIV. The highest vote to determine elections.
- XV. Elections, when held.
- XVI. Election of Councilors — Council Districts.
- XVII. Election of Secretary, Treasurer, Receiver-General, Auditor and Attorney-General — case of equal vote — vacancies — qualifications.
- XVIII. School moneys, how applied — not to be appropriated to any religious sect.
- XIX. Election of Sheriffs, Registers of Probate, etc. in counties — District Attorneys.
- XX. Literary qualifications of electors.
- XXI. Census in 1857, 1865, and every ten years after — to determine the apportionment of representation — number of members of House — Representative Districts — quorum — power of minority to compel attendance of absent members.
- XXII. Return of census — to determine the apportionment of Senators — number — Senatorial Districts — quorum — power of minority to compel attendance of absent members.
- XXIII. [Restrictions upon voters of foreign birth — *obsolete*.]
- XXIV. Vacancies in Senate, how filled.
- XXV. Vacancies in Council, how filled.
- XXVI. Repeal of Article XXIII of Amendments — proviso.

PREAMBLE.

The end of the institution, maintenance and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit and solemn compact with each other; and of forming a new Constitution of civil government for ourselves and posterity; and devoutly imploring His direction in so

interesting a design, do agree upon, ordain and establish the following *Declaration of Rights and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

ARTICLE I. All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.

ART. II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested or restrained, in his person, liberty or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments: *Provided*, he doth not disturb the public peace, or obstruct others in their religious worship.

[ART. III.¹ As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality: *Therefore*, To promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their Legislature with power to authorize and require, and the Legislature shall, from time to time, authorize and require the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.

And the people of this Commonwealth have also a right to, and do, invest their Legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

¹ Article III is superseded by amendment, Art. XI. The IIIrd article was reported by a committee, whereof the Rev. Mr. Alden was chairman, and although claimed to have been adopted "with much more unanimity than usually takes place in disquisitions of this kind," was, however, vehemently opposed at the time, and furnished a constant theme of discussion, until abandoned in 1833. *Life and Writings of John Adams*, iv, 222.

The article, as originally reported, was as follows:

"Good morals being necessary to the preservation of civil society; and the knowledge and belief of the being of God, His providential government of the world, and of a future state of rewards and punishment, being the only true foundation of morality, the Legislature hath, therefore, a right, and ought to provide, at the expense of the subject, if necessary, a suitable support for the worship of God, and of the teachers of religion and morals; and to enjoin upon all the subjects an attendance upon their instructions at stated times and seasons: *Provided*, There be any such teacher upon whose ministry they can conscientiously and conveniently attend."

Provided, notwithstanding, That the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination: *Provided,* There be any on whose instructions he attends; otherwise it may be paid toward the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.]

ART. IV. The people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

ART. V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are the substitutes and agents, and are at all times accountable to them.

ART. VI. No man, nor corporation or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what rises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children or descendants, or relations by blood, the idea of a man born a magistrate, law-giver or judge, is absurd and unnatural.

ART. VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor or private interest of any one man, family or class of men; therefore the people alone have an incontestable, unalienable and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity and happiness require it.

ART. VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

ART. IX. All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

ART. X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary; but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

ART. XI. Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

ART. XII. No subject shall be held to answer for any crimes or offense until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself: and every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers, or the law of the land.

And the Legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

ART. XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty and property of the citizen.

ART. XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right,

if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

ART. XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been other ways used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the Legislature shall hereafter find it necessary to alter it.

ART. XVI. The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Commonwealth.

ART. XVII. The people have a right to keep and to bear arms for the common defense. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the Legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

ART. XVIII. A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and Representatives; and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

ART. XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their Representatives, and to request of the legislative body, by the way of addresses, petitions or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

ART. XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the Legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for.

ART. XXI. The freedom of deliberation, speech and debate, in either House of the Legislature, is so essential to the rights of the people,

that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

ART. XXII. The Legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

ART. XXIII. No subsidy, charge, tax, impost or duties, ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their Representatives in the Legislature.

ART. XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive and inconsistent with the fundamental principles of a free government.

ART. XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the Legislature.

ART. XXVI. No Magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

ART. XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the Legislature.

ART. XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the Legislature.

ART. XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the Judges of the Supreme Judicial Court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

ART. XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive or judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men.

PART THE SECOND.

THE FRAME OF GOVERNMENT.

The people inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign and independent body politic or State by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.—THE LEGISLATIVE POWER.

SECTION 1.—THE GENERAL COURT.

ARTICLE I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

The legislative body [shall assemble every year on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and] shall be styled THE GENERAL COURT OF MASSACHUSETTS.

ART. II.² No bill or resolve of the Senate or House of Representatives shall become a law, and have force as such, until it shall have been laid before the Governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in whichsoever the same shall have originated, who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill or resolve; but if, after such reconsideration, two-thirds of the said Senate or House of Representatives shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the Legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of law; but in all such cases, the vote of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the said bill or resolve shall be entered upon the public records of the Commonwealth.

¹ See Amendments, Article X.

² Mr. Adams, the principal author of this Constitution, regarded an absolute veto power as essential, and in the draft reported by the committee this power was given as follows: "And the first Magistrate shall have a negative upon all the laws, that he may have power to preserve the independence of the Executive and Judicial Departments." This was rejected by a vote of 32 to 44.

And in order to prevent unnecessary delays if any bill or resolve shall not be returned by the Governor within five days after it shall have been presented, the same shall have the force of law.¹

ART. III. The General Court shall forever have full power and authority to erect and constitute judicatories and courts of record or other courts, to be held in the name of the Commonwealth, for the hearing, trying and determining of all manner of crimes, offenses, pleas, processes, complaints, actions, matters, causes and things whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting or residing, or brought within the same; whether the same be criminal, or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed; and for the awarding and making out of execution thereupon; to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

ART. IV. And further, full power and authority are hereby given and granted to the said General Court from time to time, to make, ordain and establish all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without, so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defense of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places so as the same be not repugnant or contrary to this Constitution; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth, for

¹ See Amendments, Article I.

the time being, with the advice and consent of the Council, for the public service, in the necessary defense and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth, taken anew once in every ten years at least, and as much oftener as the General Court shall order.

CHAPTER I.

SECTION 2 — SENATE.

[ARTICLE I.¹ There shall be annually elected, by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided, forty persons to be Councillors and Senators, for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may, from time to time, be divided by the General Court for that purpose; and the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known, to the inhabitants of the Commonwealth, the limits of each district, and the number of Councillors and Senators to be chosen therein: *Provided*, That the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six Senators.

And the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter the said districts, be districts for the choice of Councillors and Senators (except that the counties of Dukes county and Nantucket shall form one district for that purpose), and shall elect the following number for Councillors and Senators, viz.:

Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes county and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.]

ART. II. The Senate shall be the first branch of the Legislature; [² and the Senators shall be chosen in the following manner, viz.: There shall be a meeting on the first Monday in April, annually, forever, of the inhabitants of each town in the several counties of this Commonwealth, to be called by the selectmen, and warned in due course of law, at least seven days before the first Monday in April,³ for the purpose of electing persons to be Senators and Councillors; and at such meetings, every male inhabitant of twenty-one years of age and upward, having a freehold estate within the Commonwealth, of

¹ See Amendments, Articles XIII, XVI and XXII.

² See Amendments, Articles II, X, XIV and XV.

³ See Amendments, Articles III, XX, XXIII and XXVI.

the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the Senators for the District of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant," in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office or place within this State, in that town, district or plantation where he dwelleth or hath his home.

The Selectmen of the several towns shall preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for Senators, and shall sort and count them in open town meeting, and in presence of the Town Clerk, who shall make a fair record, in presence of the Selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the Selectmen and the Town Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the Town Clerk of such towns, to the Sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May, annually; or it shall be delivered into the Secretary's office seventeen days at least before the said last Wednesday in May; and the Sheriff of each county shall deliver all such certificates, by him received, into the Secretary's office, seventeen days before the said last Wednesday in May].

And the inhabitants of plantations unincorporated, qualified as this Constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for Councillors and Senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations, respectively, as the Assessors thereof shall direct; which Assessors shall have like authority for notifying the electors, collecting and returning the votes, as the Selectmen and Town Clerks have in their several towns, by this Constitution. And all other persons living in places unincorporated (qualified as aforesaid), who shall be assessed to the support of government by the Assessors of an adjacent town, shall have the privilege of giving in their votes for Councillors and Senators in the town where they shall be assessed, and be notified of the place of meeting by the Selectmen of the town where they shall be assessed, for that purpose, accordingly.

¹ See Amendments, Article X.

ART. III. And that there may be a due convention of Senators [¹on the last Wednesday in May], annually, the Governor, with five of the Council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters to attend on that day, and take their seats accordingly; [*Provided, nevertheless, That for the first year the said returned copies shall be examined by the President and five of the Council of the former Constitution of government; and the said President shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.*]

ART. IV. The Senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Constitution; and shall, on the said [¹last Wednesday in May], annually, determine and declare who are elected by each district to be Senators [²by a majority of votes; and in case there shall not be the full number of Senators returned, elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz.: The members of the House of Representatives, and such Senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of Senators wanting, if there be so many voted for, and out of these shall elect by ballot a number of Senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the Senate, arising by death, removal out of the State or otherwise, shall be supplied as soon as may be after such vacancies shall happen.]

ART. V. *Provided, nevertheless,* That no person shall be capable of being elected as a Senator [³who is not seized in his own right of a freehold within this Commonwealth of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

ART. VI. The Senate shall have power to adjourn themselves; provided such adjournments do not exceed two days at a time.

¹ See Amendments, Article X.

² See Amendments, Articles X, XIV and XXIV.

³ See Amendments, Articles XIII and XXII.

ART. VII. The Senate shall choose its own President, appoint its own officers, and determine its own rules of proceedings.

ART. VIII. The Senate shall be a court, with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and maladministration in their offices; but, previous to the trial of every impeachment, the members of the Senate shall, respectively, be sworn truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust or profit under this Commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land.

ART. IX. Not less than sixteen members of the Senate shall constitute a quorum for doing business.

CHAPTER I.

SECTION 3.—HOUSE OF REPRESENTATIVES.

ARTICLE I. There shall be, in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

[ART. II. ¹ And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town, containing one hundred and fifty ratable polls, may elect one Representative; every corporate town, containing three hundred and seventy-five ratable polls, may elect two Representatives; every corporate town, containing six hundred ratable polls, may elect three Representatives; and, proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional Representative.

Provided, nevertheless, That each town now incorporated, not having one hundred and fifty ratable polls, may elect one Representative; but no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same one hundred and fifty ratable polls.]

And the House of Representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution.

The expenses of traveling to the General Assembly, and returning home, once in every session, and no more, shall be paid by the Government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the House, and does not depart without leave.

¹ See Amendments, Articles XII, XIII and XXI.

ART. III. Every member of the House of Representatives shall be chosen by written votes; [¹and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold to the value of one hundred pounds, within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

[ART. IV.² Every male person being twenty-one years of age, and resident in any particular town in this Commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a Representative or Representatives for the said town.]

[ART. V.³ The members of the House of Representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

ART. VI. The House of Representatives shall be the grand inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the Senate.

ART. VII. All money bills shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

ART. VIII. The House of Representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

[ART. IX.⁴ Not less than sixty members of the House of Representatives shall constitute a quorum for doing business.]

ART. X. The House of Representatives shall be the judge of the returns, elections and qualifications of its own members, as pointed out in the Constitution; shall choose their own Speaker, appoint their own officers, and settle the rules and order of proceeding in their own House. They shall have authority to punish by imprisonment, every person not a member, who shall be guilty of disrespect to the House, by any disorderly or contemptuous behavior in its presence; or who, in the town where the General Court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the House; or who shall assault any of them therefor; or who shall assault or arrest any witness, or other person, ordered to attend the House, in his way in going or returning; or who shall rescue any person arrested by the order of the House.

¹ See Amendments, Articles XIII, XIV and XXI.

² See Amendments, Articles III, XX and XXIII.

³ See Amendments, Articles X and XV.

⁴ See Amendments, Article XXI.

And no member of the House of Representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the General Assembly.

ART. XI. The Senate shall have the same powers in the like cases; and the Governor and Council shall have the same authority to punish in like cases: *Provided*, That no imprisonment, on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above described offenses, be for a term exceeding thirty days.

And the Senate and House of Representatives may try and determine all cases where their rights and privileges are concerned, and which, by the Constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

CHAPTER II.—EXECUTIVE POWER.

SECTION 1.—GOVERNOR.

ARTICLE I. There shall be a Supreme Executive Magistrate, who shall be styled — THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY.

ART. II. The Governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the Commonwealth, of the value of one thousand pounds; [and unless he shall declare himself to be of the Christian religion.]

[ART. III.² Those persons who shall be qualified to vote for Senators and Representatives, within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April, annually, give in their votes for a Governor, to the Selectmen, who shall preside at such meetings; and the Town Clerk, in the presence and with the assistance of the Selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county, thirty days at least before the last Wednesday in May; and the Sheriff shall transmit the same to the Secretary's office, seventeen days at least before the said last Wednesday in May; or the Selectmen may cause returns of the same to be made, to the office of the Secretary of the Commonwealth, seventeen days at least before the said day; and the Secretary shall lay the same before the Senate and the House of

¹ See Amendments, Article VII.

² See Amendments, Articles II, X, XIV and XV.

Representatives, on the last Wednesday in May, to be by them examined ; and in case of an election by a majority of all the votes returned, the choice shall be by them declared and published ; but if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for ; but, if otherwise, out of the number voted for ; and make return to the Senate of the two persons so elected ; on which, the Senate shall proceed, by ballot, to elect one, who shall be declared Governor.]

ART. IV. The Governor shall have authority, from time to time, at his discretion, to assemble and call together the Councilors of this Commonwealth for the time being ; and the Governor, with the said Councilors, or five of them, at least, shall, and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Constitution and the laws of the land.

ART. V. The Governor, with advice of Council, shall have full power and authority, during the session of the General Court, to adjourn or prorogue the same at any time the two Houses shall desire ; [and to dissolve the same on the day next preceding the last Wednesday in May ; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess ;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same ; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

[¹And the Governor shall dissolve the said General Court on the day next preceding the last Wednesday in May.]

ART. VI. In cases of disagreement between the two Houses, with regard to the necessity, expediency or time of adjournment or prorogation, the Governor, with advice of the Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he shall determine the public good shall require.

ART. VII. The Governor of this Commonwealth, for the time being, shall be the Commander-in-Chief of the army and navy, and of all the military forces of the State, by sea and land ; and shall have full power, by himself or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy ; and, for the special defense and safety of the Commonwealth, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them, to

¹ See Amendments, Article X.

encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the Legislature to exist, as occasion shall necessarily require; and to take and surprise by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade or attempt the invading, conquering or annoying this Commonwealth; and that the Governor be intrusted with all these and other powers incident to the offices of Captain-General and Commander-in-Chief, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land, and not otherwise.

Provided, That the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the Legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court; except so far as may be necessary to march or transport them by land or water, for the defense of such part of the State to which they cannot otherwise conveniently have access.

ART. VIII. The power of pardoning offenses, except such as persons may be convicted of before the Senate, by an impeachment of the House, shall be in the Governor by and with the advice of Council; but no charter or pardon, granted by the Governor, with advice of the Council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offense or offenses intended to be pardoned.

ART. IX. All judicial officers [the Attorney-General, the Solicitor-General, all Sheriffs], Coroners [and Registers of Probate], shall be nominated and appointed by the Governor, by and with the advice and consent of the Council; and every such nomination shall be made by the Governor, and made at least seven days prior to such appointment.

ART. X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm-list of their respect-

¹ See Amendments, Articles XIV, XVII and XIX.

ive companies, [of twenty-one years of age and upwards] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the Governor, who shall determine their rank.

The Legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the Governor the officers elected.

The major-generals shall be appointed by the Senate and House of Representatives, each having a negative upon the other; and be commissioned by the Governor.

And if the electors of brigadiers, field officers, captains or subalterns shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the Governor, with the advice of Council, shall appoint suitable persons to fill such offices.

[²And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both Houses to the Governor, or by fair trial in court-martial, pursuant to the laws of the Commonwealth for the time being.]

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the Governor shall appoint the Adjutant-General.

[³The Governor, with the advice of Council, shall appoint all officers of the Continental army, whom, by the confederation of the United States, it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.]

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

ART. XI. No moneys shall be issued out of the treasury of this Commonwealth and disposed of (except such sums as may be appropriated for the redemption of bills of credit or Treasurer's notes, or for the payment of interest arising thereon), but by warrant under the hand of the Governor for the time being, with the advice and consent of the Council, for the necessary defense and support of the Commonwealth, and for the protection and preservation of the

¹ See Amendments, Article V.

² See Amendments, Article IV.

³ Obsolete since the formation of a national government.

inhabitants thereof, agreeably to the acts and resolves of the General Court.

ART. XII. All public Boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the Governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and small arms, with their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors adjacent.

And the said Boards, and all public officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

ART. XIII. As the public good requires that the Governor should not be under the undue influence of any of the members of the General Court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its Chief Magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws; and it shall be among the first acts of the General Court, after the commencement of this Constitution, to establish such salary by law accordingly.

Permanent and honorable salaries shall also be established by law for the Justices of the Supreme Judicial Court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the General Court shall judge proper.

CHAPTER II.

SECTION 2.—LIEUTENANT-GOVERNOR.

ARTICLE I.¹ There shall be annually elected a Lieutenant-Governor of the Commonwealth of Massachusetts, whose title shall be—His

¹ See Amendments, Articles III, VI, X and XV.

HONOR; and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the Governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; [¹and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have a majority of the votes of the people to be Governor.]

ART. II. The Governor, and in his absence the Lieutenant-Governor shall be President of the Council; but shall have no voice in Council; and the Lieutenant-Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

ART. III. Whenever the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities, which, by this Constitution, the Governor is vested with, when personally present.

CHAPTER II.

SECTION 3. — COUNCIL, AND THE MANNER OF SETTLING ELECTIONS BY THE LEGISLATURE.

ARTICLE I. There shall be a Council, for advising the Governor in the executive part of the government, to consist of [²nine] persons besides the Lieutenant-Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the Governor, with the said Councilors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

[ART. II.³ Nine Councilors shall be annually chosen from among the persons returned for Councilors and Senators, on the last Wednesday in May, by the joint ballot of the Senators and Representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the Council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of Senators left, shall constitute the Senate for the year. The seats of the persons thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.]

¹ See Amendments, Article XV.

² See Amendments, Article XVI.

See Amendments, Articles X, XIII and XVI.

ART. III. The Councillors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant-Governor.

[ART. IV.¹ Not more than two Councilors shall be chosen out of any one district in this Commonwealth.]

ART. V. The resolutions and advice of the Council shall be recorded in a register and signed by the members present; and this record may be called for, at any time, by either House of the Legislature; and any member of the Council may insert his opinion, contrary to the resolution of the majority.

ART. VI. Whenever the office of the Governor and Lieutenant-Governor shall be vacant, by reason of death, absence, or otherwise, then the Council, or the major part of them, shall, during such vacancy, have full power and authority, to do and execute, all and every such acts, matters and things, as the Governor or the Lieutenant-Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present.

[ART. VII.² And, whereas, the elections appointed to be made by this Constitution on the last Wednesday in May annually, by the two Houses of the Legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same shall be completed. And the order of elections shall be as follows: the vacancies in the Senate, if any, shall first be filled up; the Governor and Lieutenant-Governor shall then be elected, provided there should be no choice of them by the people; and afterward the two Houses shall proceed to the election of the Council.]

CHAPTER II.

SECTION 4. — SECRETARY, TREASURER, COMMISSARY, ETC.

ARTICLE I. [³The Secretary, Treasurer, and Receiver-General, and the Commissary-General, Notaries Public and naval officers, shall be chosen annually, by joint ballot of the Senators and Representatives, in one room.] And, that the citizens of this Commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver-General more than five years successively.

ART. II. The records of the Commonwealth shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the Governor and Council, the Senate and House of Representatives in person, or by his deputies, as they shall respectively require.

¹ See Amendments, Article XVI.

² See Amendments, Articles XVI and XXV.

³ See Amendments, Articles IV and XVII.

CHAPTER III.

JUDICIARY POWER.

ARTICLE I. The tenure that all commission officers shall by law have in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this Constitution: *Provided, nevertheless,* The Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature.

ART. II. Each branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the Supreme Judicial Court, upon important questions of law, and upon solemn occasions.

ART. III. In order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

ART. IV. The Judges of Probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the Legislature shall, from time to time, hereafter, appoint such times and places; until which appointments the said courts shall be holden at the times and places which the respective Judges shall direct.

[ART. V. ¹ All causes of marriage, divorce and alimony, and all appeals from the Judges of Probate, shall be heard and determined by the Governor and Council until the Legislature shall, by law, make other provision.]

CHAPTER IV.

DELEGATES TO CONGRESS.

[² The Delegates of this Commonwealth to the Congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the Senate and House of Representatives assembled together in one room; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the Governor, and the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned in the same manner, in their stead.]

¹ An act for regulating marriage and divorce was passed March 16, 1788.

² Superseded, on adoption of Federal Constitution, by a different method.

CHAPTER V.—THE UNIVERSITY AT CAMBRIDGE, AND
ENCOURAGEMENT OF LITERATURE, ETC.

SECTION 1.—THE UNIVERSITY.

ARTICLE I. Whereas, our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and State; and whereas, the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America,—it is declared, that the President and Fellows of Harvard College, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy; and the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

ART. II. And whereas there have been, at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the President and Fellows of Harvard College, or to the said college by some other description, under several charters successively; it is declared, that all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

ART. III. And whereas, by an act of the General Court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the Governor and Deputy-Governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new Constitution of government, to ascertain who shall be deemed successors to the said Governor, Deputy-Governor and Magistrates; it is declared that the Governor, Lieutenant-Governor, Council and Senate of this Commonwealth, are, and shall be deemed, their successors.

who, with the President of Harvard College, for the time being, together with the ministers of the Congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College; *Provided*, That nothing herein shall be construed to prevent the Legislature of this Commonwealth from making such alterations in the government of the said University as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the Legislature of the late Province of the Massachusetts Bay.

CHAPTER V.

SECTION 2. — THE ENCOURAGEMENT OF LITERATURE, ETC.¹

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of Legislatures and Magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity and good humor, and all social affections and generous sentiments, among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

ARTICLE I. [² Any person chosen Governor, Lieutenant-Governor, Councilor, Senator or Representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz. :

¹ See Amendments, Article XVIII.

² See Amendments, Articles VI and VII.

"¹ I, A. B., do declare that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the Constitution, as one qualification for the office or place to which I am elected."

And the Governor, Lieutenant-Governor and Councilors shall make and subscribe the said declaration, in the presence of the two Houses of Assembly; and the Senators and Representatives, first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterward, before the Governor and Council for the time being.]

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration and oaths or affirmations, viz.:

"² I, A. B., do truly and sincerely acknowledge, profess, testify and declare that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State, and I do swear that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to the king, queen or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the Congress of the United States; and I do further testify and declare that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion or secret reservation whatsoever. So help me, God."]

"I, A. B., do solemnly swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution and the laws of the Commonwealth. So help me, God."

[² Provided, always, that when any person, chosen and appointed as aforesaid, shall be of the denomination of people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, "I do swear," "and abjure," "oath or," "and abjuration," in the first oath; and in the second oath, the words "swear and," and in each of them the words, "So help me, God;" subjoining instead thereof, "This I do under the pains and penalties of perjury."]

And the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant-Governor and Councilors, before the Presi-

¹ See Amendments, Articles VI, VII and XIII.

² See Amendments, Article VI.

dent of the Senate, in the presence of the two Houses of Assembly; and by the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterward before the Governor and Council for the time being; and by the residue of the officers aforesaid, before such persons, and in such manner as from time to time shall be prescribed by the Legislature.

ART. 2.¹ No Governor, Lieutenant-Governor, or Judge of the Supreme Judicial Court, shall hold any other office or place, under the authority of this Commonwealth, except such as by the Constitution they are admitted to hold, saving that the Judges of the said court may hold the offices of Justices of the Peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State, or government, or power, whatever.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz.: Judge of Probate, Sheriff, Register of Probate, or Register of Deeds; and never more than any two offices, which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices and the officers of Justices of the Peace excepted, shall be held by one person.

No person holding the office of Judge of the Supreme Judicial Court, Secretary, Attorney-General, [¹Solicitor-General], Treasurer or Receiver-General, Judge of Probate, Commissary-General, President, Professor or Instructor of Harvard College, Sheriff, Clerk of the House of Representatives, Register of Probate, Register of Deeds, Clerk of the Supreme Judicial Court, [Clerk of the Inferior Court of Common Pleas], or officer of the customs, including in this description naval officers, shall at the same time have a seat in the Senate or House of Representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the Senate or House of Representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any Judge of the said Supreme Judicial Court, or Judge of Probate, shall accept a seat in Council; or any Councilor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the Legislature, or any office of trust or importance under the government of this Commonwealth, who shall, in the due course of law, have been

¹ See Amendments, Article VIII.

convicted of bribery or corruption, in obtaining an election or appointment.

ART. III.¹ In all cases where sums of money are mentioned in this Constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the Legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the Commonwealth shall require. *

ART. IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor, and attested by the Secretary or his deputy, and have the great seal of the Commonwealth affixed thereto.

ART. V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the First Justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

ART. VI. All the laws, which have heretofore been adopted, used and approved, in the Province, Colony or State of Massachusetts Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the Legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution.

ART. VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

ART. VIII. The enacting style, in making and passing all acts, statutes and laws, shall be — "*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by authority of the same.*"

[ART. IX. To the end there may be no failure of justice, or danger arise to the Commonwealth, from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay, in New England, and all other officers of the said government and people, at the time this Constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the Executive and Legislative officers, bodies and powers, shall continue in

¹ See Amendments, Article XIII.

full force, in the enjoyment and exercise of all their trusts, employments and authority, until the General Court, and the Supreme and Executive officers under this Constitution, are designated and invested with their respective trusts, powers and authority.

[ART. X.¹ In order the more effectually to adhere to the principles of the Constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the General Court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the Selectmen of the several towns, and to the Assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution, in order to amendments.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office, to the several towns, to elect Delegates to meet in Convention for the purpose aforesaid.²

The said Delegates to be chosen in the same manner and proportion as their Representatives in the second branch of the Legislature are by this Constitution to be chosen.]

ART. XI. This form of government shall be enrolled on parchment, and deposited in the Secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

JAMES BOWDOIN, *President*.

Attest: SAMUEL BARRETT, *Secretary*.

ARTICLES OF AMENDMENT.

ARTICLE I.³ If any bill or resolve shall be objected to, and not approved by the Governor; and if the General Court shall adjourn within five days after the same shall have been laid before the Governor for his approbation, and thereby prevent his returning it with his objections, as provided by the Constitution, such bill or resolve shall not become a law, nor have force as such.

ART. II.⁴ The General Court shall have full power and authority to erect and constitute municipal or city governments in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the Constitution, as the General Court shall deem necessary or expedient

¹ See Amendments, Article IX.

² The election resulted adversely to a change. See Historical Introduction.

³ Ratified April 9, 1821, by a vote of 17,949 to 10,707.

⁴ Ratified April 9, 1821, by a vote of 14,368 to 14,306.

for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards or otherwise, for the election of officers under the Constitution, and the manner of returning the votes given at such meetings: *Provided*, That no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent, and on the application, of a majority of the inhabitants of such town, present and voting thereon, "pursuant to a vote at a meeting duly warned and holden for that purpose: *And provided, also*, That all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the General Court.

ART. III.¹ Every male citizen of twenty-one years of age and upward (excepting paupers and persons under guardianship), who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of Governor, Lieutenant-Governor, Senators or Representatives, and who shall have paid, by himself, or his parent, master, or guardian, any State or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this Commonwealth; and also, every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of Governor, Lieutenant-Governor, Senators and Representatives; and no other person shall be entitled to vote in such elections.

ART. IV.² Notaries Public shall be appointed by the Governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the Governor, with the consent of the Council, upon the address of both Houses of the Legislature.

[³ In case the office of Secretary or Treasurer of the Commonwealth shall become vacant from any cause, during the recess of the General Court, the Governor, with the advice and consent of the Council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the General Court.]

Whenever the exigencies of the Commonwealth shall require the appointment of a Commissary-General, he shall be nominated, appointed and commissioned, in such manner as the Legislature may by law prescribe.

¹ Ratified April 9, 1821, by a vote of 18,703 to 10,150. A decision is given in 11 Pickering, 538.

² Ratified April 9, 1821, by a vote of 14,174 to 13,577.

³ See Amendments, Article XVII.

All officers commissioned to command in the militia, may be removed from office in such manner as the Legislature may by law prescribe.

ART. V.¹ In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.

ART. VI.² Instead of the oath of allegiance prescribed by the Constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this Commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the Constitution thereof. So help me God."

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear," and inserting, instead thereof, the word "affirm," and omitting the words, "so help me God," and subjoining, instead thereof, the words, "This I do under the pains and penalties of perjury."

ART. VII.³ No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the Governor, Lieutenant-Governor, Councilors, Senators or Representatives, to qualify them to perform the duties of their respective offices.

ART. VIII.⁴ No Judge of any court of this Commonwealth (except the Court of Sessions), and no person holding any office under the authority of the United States (postmasters excepted), shall, at the same time, hold the office of Governor, Lieutenant-Governor or Councilor, or have a seat in the Senate or House of Representatives of this Commonwealth; and no Judge of any court in this Commonwealth (except the Court of Sessions), nor the Attorney-General [Solicitor-General, County Attorney], Clerk of any court, Sheriff, Treasurer and Receiver-General, Register of Probate, nor Register of Deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; [and Judges of the Courts of Common Pleas shall hold no other office under the

¹ Ratified April 9, 1821, by a vote of 22,726 to 6,444.

² Ratified April 9, 1821, by a vote of 17,552 to 9,244.

³ Ratified April 9, 1821, by a vote of 18,782 to 12,480.

⁴ Ratified April 9, 1821, by a vote of 18,048 to 8,412.

government of this Commonwealth, the office of Justice of the Peace and militia officers excepted.]

ART. IX.¹ If, at any time hereafter, any specific and particular amendment or amendments to the Constitution be proposed in the General Court, and agreed to by a majority of the Senators and two-thirds of the members of the House of Representatives present and voting thereon, such proposed amendment or amendments shall be entered on the Journals of the two Houses, with the yeas and nays taken thereon, and referred to the General Court then next to be chosen, and shall be published; and if, in the General Court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two-thirds of the members of the House of Representatives present and voting thereon, then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the Constitution of this Commonwealth.

ART. X.² The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the General Court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the Constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the General Court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the Governor. But nothing herein contained shall prevent the General Court from assembling at such other times as they shall judge necessary, or when called together by the Governor. The Governor, Lieutenant-Governor and Councilors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

[³ The meeting for the choice of Governor, Lieutenant-Governor, Senators and Representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of Representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of Representatives, such meetings shall be held on the fourth Monday of the same month of November.]

¹ Ratified April 9, 1821, by a vote of 16,325 to 11,671.

² Adopted by Legislature in 1829-30 and 1830-31; ratified May 11, 1831.

³ See Amendments, Article XV.

All the [other] provisions of the Constitution, respecting the elections and proceedings of the members of the General Court, or of any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the Constitution; and the Governor, Lieutenant-Governor, Councilors, Senators, Representatives, and all other State officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the Governor, Lieutenant-Governor, Senators and Representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

All the provisions of the existing Constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

ART. XI.¹ Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:

“As the public worship of God, and instructions in piety, religion and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.”

¹ Adopted by Legislature in 1832 and 1833; ratified November 11, 1833.

[ART. XII.¹ In order to provide for a representation of the citizens of this Commonwealth, founded upon the principles of equality, a census of the ratable polls in each city, town and district of the Commonwealth, on the first day of May, shall be taken and returned into the Secretary's office, in such manner as the Legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one Representative, and for every four hundred and fifty ratable polls, in addition to the first three hundred, one Representative more.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one Representative as many years within ten years as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more Representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional Representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a Representative or Representatives; and such districts shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The Governor and Council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of Representatives which each city, town and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town and representative district may elect an additional Representative; and where any town has not a sufficient number of polls to elect a Representative each year, then, how many years, within the ten years, such town may elect a Representative; and the same shall be done once in ten years thereafter, by the Governor and Council, and the number of ratable polls in each decennial census of polls shall determine the number of Representatives which each city, town and representative district may elect as aforesaid; and when the number of Representatives to be elected by each city, town or representative district is ascertained and determined as aforesaid, the Governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

All the provisions of the existing Constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.]

[ART. XIII.² A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the Secretary's office, on or before

¹ Adopted by Legislature in 1835 and 1836. Ratified Nov. 19, 1836. See Amendments, Articles XIII, XVI, XXI, XXII.

² Adopted by Legislature in 1839 and 1840. Ratified April 6, 1840, by a vote of 24,884 to 4,612. See Amendments, Articles XXI, XXII.

the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of Senators and Representatives for the term of ten years.

The several Senatorial Districts now existing shall be permanent. The Senate shall consist of forty members, and in the year one thousand eight hundred and forty, and every tenth year thereafter, the Governor and Council shall assign the number of Senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one Senator shall be assigned to each district.

The members of the House of Representatives shall be apportioned in the following manner: Every town or city, containing twelve hundred inhabitants, may elect one Representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional Representative.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a Representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one Representative for the year in which the valuation of estates within the Commonwealth shall be settled.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a Representative District, to continue for the term of ten years; and such districts shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

The number of inhabitants which shall entitle a town to elect one Representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a Representative every year, is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the Commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said members above mentioned.

In the year of each decennial census, the Governor and Council shall, before the first day of September, apportion the number of Representatives which each city, town and Representative District is entitled to elect, and ascertain how many years, within ten years, any town may elect a Representative, which is not entitled to elect one every year; and the Governor shall cause the same to be published forthwith.

Nine Councilors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the Senators and Representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the Council by death, resignation or otherwise. No person shall be elected a Councilor who has not been an inhabitant of this Commonwealth for the term of five years immediately preceding his election; and not more than one Councilor shall be chosen from any one Senatorial District in the Commonwealth.]

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the General Court, or in the Executive Council.

ART. XIV.¹ In all elections of civil officers by the people of this Commonwealth, whose election is provided for by the Constitution, the person having the highest number of votes shall be deemed and declared to be elected.

ART. XV.¹ The meeting for the choice of Governor, Lieutenant-Governor, Senators and Representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect Representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

ART. XVI.¹ Eight Councilors shall be annually chosen by the inhabitants of this Commonwealth, qualified to vote for Governor. The election of Councilors shall be determined by the same rule that is required in the election of Governor. The Legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census thereafterward, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one Councilor: *Provided, however,* That if, at any time, the Constitution shall provide for the division of the Commonwealth into forty Senatorial Districts, then the Legislature shall so arrange the Councilor Districts that each district shall consist of five contiguous Senatorial Districts, as they shall be, from time to time, established by the Legislature. No person shall be eligible to the office of Councilor who has not been an inhabitant of the Commonwealth for the term of five years immediately preceding his election. The day and manner of election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of Governor. Whenever there shall be a failure to elect the full number of Councilors, the vacancies shall be filled in the same manner as is required for filling vacancies in the Senate; and vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened. And that there may be no delay in the organization of the government on the first Wednesday of January, the Governor, with at least five Councilors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of Governor, Lieutenant-Governor and Councilors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as

¹ Adopted by Legislature in 1854 and 1855; ratified May 23, 1855.

appear to be chosen, to attend on that day to be qualified accordingly ; and the Secretary shall lay the returns before the Senate and House of Representatives on the said first Wednesday in January, to be by them examined ; and in case of the election of either of said officers, the choice shall be by them declared and published ; but in case there shall be no election of either of said officers, the Legislature shall proceed to fill such vacancies in the manner provided in the Constitution for the choice of such officers.

ART. XVII.¹ The Secretary, Treasurer, and Receiver-General, Auditor, and Attorney-General, shall be chosen annually, on the day in November prescribed for the choice of Governor ; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of Governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the Senators and Representatives, in one room ; and in case the office of Secretary, or Treasurer and Receiver-General, or Auditor, or Attorney-General, shall become vacant, from any cause, during an annual or special session of the General Court, such vacancy shall, in like manner, be filled by choice from the people at large ; but if such vacancy shall occur at any other time, it shall be supplied by the Governor by appointment, with the advice and consent of the Council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this Commonwealth five years next preceding his election or appointment.

ART. XVIII.¹ All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be

¹ Adopted by Legislature in 1854 and 1855. Ratified May 23, 1855.

appropriated by the State for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

ART. XIX.¹ The Legislature shall prescribe, by general law, for the election of Sheriffs, Registers of Probate, Commissioners of Insolvency, and Clerks of the Courts, by the people of the several counties, and that District Attorneys shall be chosen by the people of the several districts, for such term of office as the Legislature shall prescribe.

ART. XX.² No person shall have the right to vote, or be eligible to office, under the Constitution of this Commonwealth, who shall not be able to read the Constitution in the English language, and write his name: *Provided, however,* That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upward at the time this amendment shall take effect.

ART. XXI.³ A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the Secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of Representatives for the periods between the taking of the census.

The House of Representatives shall consist of two hundred and forty members, which shall be apportioned by the Legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the Commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the Secretary of the Commonwealth, to certify, as soon as may be after it is determined by

¹ Adopted by Legislature in 1854 and 1855. Ratified May 23, 1855.

² Adopted by Legislature in 1856 and 1857. Ratified May 1, 1857.

the Legislature, the number of Representatives to which each county shall be entitled, to the Board authorized to divide each county into Representative Districts. The Mayor and Aldermen of the city of Boston, the County Commissioners of other counties than Suffolk, or in lieu of the Mayor and Aldermen of the city of Boston, or of the County Commissioners in each county other than Suffolk, such Board of Special Commissioners in each county to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of Representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into Representative Districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three Representatives. Every Representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The districts in each county shall be numbered by the Board creating the same, and a description of each, with the numbers thereof, and the number of legal voters therein, shall be returned by the Board, to the Secretary of the Commonwealth, the County Treasurer of each county, and to the Clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of Representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the House of Representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

ART. XXII.¹ A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the Secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of

¹ Adopted by Legislature in 1856 and 1857; ratified May 1, 1857.

such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of Senators for the periods between the taking of the census. The Senate shall consist of forty members. The General Court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *Provided, however,* That no town, or ward of a city, shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one Senator, who shall have been an inhabitant of this Commonwealth five years at least, immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such Senatorial District when he shall cease to be an inhabitant of the Commonwealth. Not less than sixteen Senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

[ART. XXIII.¹ No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the Constitution and laws of this Commonwealth: *Provided,* That this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof: *And, Provided, further,* That it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.]

ART. XXIV.² Any vacancy in the Senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the Senators elected.

ART. XXV.³ In case of a vacancy in the Council, from a failure of election, or other cause, the Senate and House of Representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the Legislature is not in session, the Governor, with the advice and consent of the Council, may fill the same by the appointment of some eligible person.

ART. XXVI.³ The twenty-third article of the articles of amendment of the Constitution of this Commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall

¹ Adopted by Legislature in 1858 and 1859; ratified May 9, 1859; repealed by Article XXVI.

² Adopted by Legislature in 1859 and 1860; ratified May 7, 1860.

³ Adopted by Legislature in 1862 and 1863; ratified April 6, 1863.

be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the Constitution and laws of this Commonwealth: *Provided*, That this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof: *And, Provided, further*, That it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.



MICHIGAN.

Settlement within the present limits of Michigan was first made by the French, of Canada, at Detroit, in 1702, and this became an important trading post. The civil and military authority were exercised by a Commandant, and the rules in force relating to the rights of property, devises, succession, and the marriage relation were those of the French law, so far as the circumstances of the country allowed, and they were not entirely abandoned until 1810. In 1760, the country passed under the English rule, with the conquest of Canada, and a British garrison was maintained at Detroit until 1796, although, under the treaty of 1782-83, the whole of the present State of Michigan was included within the United States.

The grants made under French authority, were confirmed by the terms of surrender, but public sales of land, under government survey, did not commence until 1818, although a land office had been opened in 1804, for the adjustment of titles.

Being within the region known as the "Territory of the United States north-west of the Ohio River," it came under the ordinance of July 13, 1787, and the act of August 7, 1789, for the government of that territory.

On the 7th of May, 1800, upon the formation of the territory of Indiana, about half of the peninsula of Michigan, being the part west of the meridian of the mouth of the Great Miami River, was included; but on the 30th of April, 1802, the part north of the parallel of latitude passing through the southern point of Lake Michigan, was attached to that territory.

The territory of Michigan was formed from Indiana territory, by an act of Congress, passed January 11, 1805; bounded south by a line drawn east, from the south end of Lake Michigan to Lake Erie, and west, by the center of Lake Michigan to its most northern point, and thence by a line due north to Canada. The inhabitants were entitled to all the rights and privileges granted by the ordinance of 1787, and the seat of government was fixed at Detroit. The government established was of the first grade, in which the powers were vested in a Governor and three Judges. The act took effect on the 30th of June following, and private rights and judicial proceedings were not to be affected by the change. At this time the population of the territory was about 4,000.

The Governor and Judges, in May, 1806, adopted the first code of laws of the territory, which was selected from the laws of the older States. On the 9th of April, 1816, upon the admission of Indiana, its northern boundary was carried ten miles further north, and provision was made March 2, 1827, for its survey, as it now exists. On the 18th of June, 1818, upon the admission of Illinois, all that part of the territory east of the Mississippi, and north of 42° 30', was annexed to Michigan territory, and June 28, 1834, all north of the State of Missouri, and east of the Missouri and White Earth Rivers was also annexed. This portion so remained until the formation of Wisconsin territory, April 20, 1836, when all west of Lake Michigan, excepting the part known as the "Upper Peninsula," was included in the new territory.

The territory of Michigan was, by an act approved February 16, 1819, allowed to send a Delegate to Congress, and by an act of March 3, 1823, it was advanced to the full powers of a territory of the second grade, with a Legislature of its

own. The Legislative Council consisted of nine persons appointed by the President, out of eighteen designated by the electors, but their number was increased, February 5, 1825, to thirteen, appointed in like manner out of twenty-six. In January, 1827, the electors were allowed to choose thirteen Representatives directly, without further sanction either of the President or Congress.

Under the ordinance of 1787, the territory claimed the right of admission as a State, whenever the population should amount to 60,000; and, believing themselves thus entitled, the people of the territory, in 1832, by a decided vote, determined to apply for admission, and memorialized Congress upon the subject. A bill was introduced for this purpose, but from the opposition of Ohio, growing out of a boundary controversy, the bill did not at that time pass.

As this controversy had an important bearing upon the future destinies of the State, and as for more than thirty years it was a subject of discussion between the State of Ohio and the territory of Michigan, the grounds of difference will be here stated. By the act of 1802, enabling the people of Ohio to form a State government, this boundary was declared to be "on the north, by an east and west line drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid, from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line, and thence, with the same, through Lake Erie to the Pennsylvania line." The Constitution of Ohio adopted the same description, with this condition: "*Provided always*, and it is hereby fully understood and declared by this Convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect Lake Erie east of the mouth of the Miami River, then, in that case, with the assent of the Congress of the United States, the northern boundary of the State shall be established by and extend to a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami as aforesaid; thence northeast to the territorial line, and by said territorial line to the Pennsylvania line."

On the 20th of May, 1812, an act had been passed by Congress for ascertaining and marking the line between Ohio and Michigan, but the line was not run until 1818. On the 14th of July, 1832, another act was passed by Congress, to provide for taking certain observations preparatory to the adjustment of the northern boundary of Ohio. The more northern of these lines (known as Harris' Line), was about seventy-two miles long, and the southern (known as Fulton's Line), about ninety. The width between them on the east was about seven, and on the west, five miles, and the area in dispute, about four hundred and sixty-eight square miles. Besides this, there was a large triangular piece in the north-eastern part of Ohio, of over a thousand square miles in area, north of "Fulton's Line" continued, which Michigan claimed as her "Eastern Tract," but over which the State of Ohio had always exercised jurisdiction, from her first organization. Even a continuation of Harris' line, or the more northerly line, as claimed by Ohio, would cut off about three hundred and twenty-four square miles from the north-eastern corner of Ohio. The western tract had been held by Michigan, and from its embracing valuable harbors and the mouth of an important river, it was highly prized.

On the 6th of September, 1834, the Legislative Council of Michigan ordered a census of the free white inhabitants within the peninsula, to be taken, and the returns showed a population of 83,273. A Convention was accordingly called by the Legislative Council, January 26, 1835, to be composed of eighty-nine Delegates, to be elected by the people on the 4th of April, and to meet on the

11th of May of that year. They claimed to exercise this power under the fifth article of the ordinance of July 13, 1787, having fulfilled the condition as to numbers. This Convention met at Detroit on the appointed day, and remained in session until June 29th, when it agreed upon a Constitution, which was approved by the people, at an election held October 5th, by a decisive vote of five to one, and a State government, in all its departments, was organized, and went into operation on the first Monday of November of that year.

The boundaries claimed by the proposed State, included only the portion within the eastern or lower peninsula, and extended to the more southerly of the boundary lines in controversy. Application was made for admission into the Union, and a copy of the census returns was forwarded with the memorial.

On the 9th of December, 1835, President Jackson called the attention of Congress to the application, in a special message, in which, without expressing any opinion on its merits, he based the claim upon the provision of the ordinance of 1787. Objections were raised upon the ground of irregularity in the proceedings of the Legislative Council, in calling a Convention without express authority from Congress, and a resolution was passed in the Senate, declaring that that body regarded the memorial of the Senate and House of Representatives of the State of Michigan, as only the voluntary act of private individuals.

A bill was, however, carried, admitting the State into the Union. This act, approved June 15, 1836, provided, "That the Constitution and State government which the people of Michigan have formed for themselves be, and the same is hereby accepted, ratified and confirmed; and that the State of Michigan is hereby admitted into the Union. * * * *Provided always*, That this admission is upon the express condition, that the said State shall consist of, and have jurisdiction over, all the territory included within the following boundaries, and over none other." These boundaries were the same as claimed by Ohio on the south, and included the "Upper Peninsula," as now bounded, which was added by way of compensation for the loss of territory on the southern border. The acceptance of this proviso, by a special Convention called for the sole purpose, was made a fundamental condition to admission.

A Convention elected under an act of the State Legislature of Michigan, passed July 25, 1836, was held. The Convention met September 26th, at Ann Arbor, and on the 30th rejected the condition imposed by Congress, by a vote of 28 to 31, on the ground that that body had no right to annex such a condition, according to the terms of the ordinance of 1787. Meanwhile a division of opinion as to the propriety of accepting the proposed terms began to arise among the inhabitants. An approaching distribution of the surplus revenues among the States might have had its influence, and there were other manifest benefits to be derived from the Union, which might be indefinitely delayed by non-acceptance.

During the autumn, two large primary assemblies of the party assenting to the terms of Congress were held, one in Wayne, and the other at Washtenau, two of the most populous counties in the State. A second Convention was proposed, and the Governor was requested to call the same by proclamation; but this he declined to do, from the want of authority of law. A Convention was, however, decided upon, and on the 14th of November a circular was issued by the officers of the assenting party, recommending the qualified voters in the several counties to meet on the 5th and 6th of December, and elect delegates to attend a Convention, under all the formalities of law. This election was attended only by one party, while those who dissented on the question of boundary abstained from voting.

It was shown by information collected after its adjournment, that probably from 5,000 to 6,000 votes for members of this second Convention had been cast

at the first election for those who opposed the acceptance of the propositions of Congress, and that from 8,000 to 9,000 were cast for those who favored acceptance. Although manifestly irregular, it thus appeared, nevertheless, to express the wishes of a majority of the voters.

The Convention met at Ann Arbor on the 14th of December, and on the 15th unanimously agreed to accept the conditions imposed, but protested against the Constitutional right of Congress to require the preliminary assent. These proceedings led to a lengthy debate in Congress, but an act was finally approved January 26, 1837, which, after asserting, by preamble, that the people had given their consent to the proposed boundaries, in the Convention of December 15th, declared Michigan to be admitted into the Union on an equal footing with the original States, in all respects whatever.

The line between Wisconsin Territory and the Upper Peninsula of Michigan was ordered to be surveyed by an act of Congress, approved June 12, 1838.

The question of calling another Constitutional Convention was submitted by law to the electors, on the 6th of November, 1849, and it being approved by a vote of 33,193 to 4,095, a Convention was held at the State Capitol at Lansing, June 3, 1850, and on the 15th of August, it agreed upon a new Constitution, which was accepted by a vote of 36,169 to 9,433 at the next November election. A clause submitting the question of equal suffrage to colored persons was voted upon separately, and this right was denied to them.

The Constitution of 1850 provided that at the election held in 1866, and in every sixteenth year thereafter, the question of holding a Convention for revising the Constitution should be held. The vote for revision, taken under this authority in 1866, gave a return of 79,505 for, and 28,623 against, a Convention.

A majority favoring, an act passed on the 11th of March, 1867, appointed an election, on the first Monday in April, of Delegates to meet in Convention on the third Wednesday in May of that year. It met on the 15th of May, and adjourned on the 22d of August, after adopting a new Constitution. The question of its ratification was submitted to the people on the first Monday of April, 1868, and it was rejected by a vote of 71,733 to 110,582. The question of prohibition of the sale of ardent spirits was submitted separately, and the returns showed a majority against the measure, the vote being 72,462 to 86,142. The question of annual or biennial sessions of the Legislature was also submitted separately, and the returns gave a vote of 100,314 for annual, and 24,482 for biennial, sessions. Important amendments were ratified at the general election in 1870.

CONSTITUTION OF MICHIGAN, 1850.

SUMMARY.

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- I. Boundaries.
- II. Seat of Government.
- III. Division of the Powers of Government.
- IV. Legislative Department.
- V. Executive Department.
- VI. Judicial Department.
- VII. Elections.
- VIII. State Officers.
- IX. Salaries.
- X. Counties.
- XI. Townships.
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- XIV. Finance and Taxation.
- XV. Corporations.
- XVI. Exemptions.
- XVII. Militia.
- XVIII. Miscellaneous Provisions.
- XIX. Upper Peninsula — Railroad.
- XX. Amendments to the Constitution. Schedule. Resolution.

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10. Limitation of corporations.
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10. Right of assembling and of petitioning.
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27. Representative Districts to be formed in 1851.
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30. Separate vote on allowing suffrage to colored persons.

PREAMBLE.

The people of the State of Michigan do ordain this Constitution.

ARTICLE I.

BOUNDARIES.

The State of Michigan consists of, and has jurisdiction over, the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay shall intersect the same, said point being the north-west corner of the State of Ohio, as established by act of Congress, entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary line of the State of Ohio till it intersects the boundary line between the United States and Canada in Lake Erie; thence with said boundary line between the United States and Canada through the Detroit river, Lake Huron and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the center of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menominee river; thence down the center of the main channel of the same to the center of the most usual ship channel of the Green Bay of Lake Michigan; thence through the center of the most usual ship channel

of the said Bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said State of Indiana to the northeast corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

ARTICLE II.

SEAT OF GOVERNMENT.

SECTION 1. The seat of government shall be at Lansing, where it is now established.

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of government are divided into three Departments, the Legislative, Executive and Judicial.

§ 2. No person belonging to one Department shall exercise the powers properly belonging to another, except in the cases expressly provided in this Constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power is vested in a Senate and House of Representatives.

§ 2. The Senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive, each of which shall choose one Senator. No county shall be divided in the formation of Senate Districts, except such county shall be equitably entitled to two or more Senators.

§ 3. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred, members. Representatives shall be chosen for two years, and by single districts. Each Representative District shall contain, as nearly as may be, an equal number of inhabitants,¹ [exclusive of persons of Indian descent, who are not civilized, or are members of any tribe], and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a Representative District. When any township or city shall contain a population which entitles it to more than one

¹ The clauses in brackets were added by amendment, proposed on the 5th of April, 1868, and approved at a general election on the 8th of November, 1870, by a vote of 54,105 *for*, to 50,975 *against*. The word "white" before "inhabitants," and the words "and civilized persons of Indian descent not," after the word "inhabitants," were stricken out by the same amendment.

Representative, then such township or city shall elect by general ticket the number of Representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate Representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one Representative, the Board of Supervisors shall assemble at such time and place as the Legislature shall prescribe, and divide the same into Representative Districts, equal to the number of Representatives to which such county is entitled by law, and shall cause to be filed in the offices of the Secretary of State and Clerk of such county a description of such Representative Districts, specifying the number of each district, and population thereof, according to the last preceding enumeration.

§ 4. The Legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the Legislature shall re-arrange the Senate Districts, and apportion anew the Representatives among the counties and districts, according to the number of inhabitants,¹ [exclusive of persons of Indian descent, who are not civilized, or are] members of any tribe. Each apportionment, and the division into Representative Districts, by any Board of Supervisors, shall remain unaltered until the return of another enumeration.

§ 5. Senators and Representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

§ 6. No person holding any office under the United States (or this State), or any county office, except Notaries Public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either House of the Legislature, and all votes given for any such person shall be void.

§ 7. Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the Legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either House.

¹ The clauses in brackets were added by amendment, proposed on the 5th of April, 1869, and approved at a general election on the 8th of November, 1870, by a vote of 54,108 *for*, to 50,398 *against*. The word "white" before "inhabitants," and the words "and civilized persons of Indian descent not," after the word "inhabitants," were stricken out by the same amendment.

§ 8. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

§ 9. Each House shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, election, and return of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election. The reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

§ 10. Each House shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either House, on any question, shall be entered on the journal at the request of one-fifth of the members elected. Any member of either House may dissent from and protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

§ 11. In all elections by either House, or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the Senate shall be taken by yeas and nays, and published with the journal of its proceedings.

§ 12. The doors of each House shall be open, unless the public welfare require secrecy. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

§ 13. Bills may originate in either House of the Legislature.

§ 14. Every bill and concurrent resolution, except of adjournment, passed by the Legislature, shall be presented to the Governor before it becomes a law. If he approve, he shall sign it; but if not, he shall return it with his objections to the House in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall be reconsidered. If approved by two-thirds of the members elected to that House, it shall become a law. In such case, the vote of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each House respectively. If any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a

law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return; in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State, within five days after the adjournment of the Legislature, any act passed during the last five days of the session; and the same shall become a law.

§ 15. The compensation of the members of the Legislature shall be three dollars a day for actual attendance, and when absent on account of sickness [¹ but the Legislature may allow extra compensation to the members from the territory of the "Upper Peninsula," not exceeding two dollars per day during the session]. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the Governor's Proclamation, or submitted to them by special message. They shall be entitled to ten cents, and no more, for every mile actually traveled, going to and returning from the place of meeting, on the usually traveled route; and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the Legislature of which he was a member; but shall not receive at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this Constitution.

§ 16. The Legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the Legislature, but not on any sent or mailed by them.

§ 17. The President of the Senate and the Speaker of the House of Representatives shall be entitled to the same per diem compensation and mileage as members of the Legislature, and no more.

§ 18. No person elected a member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, from the Legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment, shall be void. No member of the Legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

¹ Amendment adopted by the Legislature of 1859, and approved by the people in 1860, by a vote of 53,152 for, to 18,266 against. The part in brackets was inserted in place of the following: "for the first sixty days of the session of the year 1851, and for the first forty days of every subsequent session, and nothing thereafter."

§ 19. Every bill and joint resolution shall be read three times in each House, before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each House. On the final passage of all bills, the vote shall be by ayes and nays, and entered on the journal.

§ 20. No laws shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the Legislature shall otherwise direct, by a two-thirds vote of the members elected to each House.

§ 21. The Legislature shall not grant nor authorize extra compensation to any public officer, agent or contractor, after the service has been rendered or the contract entered into.

§ 22. The Legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper and printing for the Executive Department, and all other printing ordered by the Legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The Legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. They shall not rescind nor alter such contract, nor release the person nor persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the Legislature, nor officer of the State, shall be interested directly or indirectly in any such contract.

§ 23. The Legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate, nor alter any road laid out by Commissioners of Highways, or any street in any city or village, or in any recorded town plat.

§ 24. The Legislature may authorize the employment of a Chaplain for the State prison; but no money shall be appropriated for the payment of any religious services in either House of the Legislature.

§ 25. No law shall be revised, altered or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended, shall be re-enacted, and published at length.

§ 26. Divorces shall not be granted by the Legislature.

§ 27. The Legislature shall not authorize any lottery, nor permit the sale of lottery tickets.

[28.¹ No new bill shall be introduced into either House of the Legislature after the first fifty days of a session shall have expired.]

§ 29. In case of a contested election, the person only shall receive from the State per diem compensation and mileage, who is declared to be entitled to a seat by the House in which the contest takes place.

§ 30. No collector, holder, nor disburser of public moneys, shall have a seat in the Legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

§ 31. The Legislature shall not audit nor allow any private claim or account.

§ 32. The Legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

[§ 33.² The Legislature shall meet at the seat of government on the first Wednesday in January, in the year one thousand eight hundred and sixty-one, and on the first Wednesday in January in every second year thereafter and at no other place or time, unless as provided in in the Constitution of this State, and shall adjourn without day at such time as the Legislature shall fix by concurrent resolution.]

§ 34. The election of Senators and Representatives pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

§ 35. The Legislature shall not establish a State paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage, shall be entitled to receive a sum not exceeding fifteen dollars therefor.

§ 36. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

§ 37. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this Constitution.

§ 38. The Legislature may confer upon organized townships, incorporated cities and villages, and upon the Board of Supervisors of the

¹ Amendment adopted by the Legislature of 1859, and approved by the people at a general election in 1860, by a vote of 53,152 to 18,246. The section originally read as follows:

§ 28. No new bill shall be introduced into either House during the last three days of the session, without the unanimous consent of the House in which it originates.

² Amendment adopted at the same time, and by the same vote as section 28. It originally read as follows:

"The Legislature shall meet at the seat of government on the first Wednesday in February next, and on the first Wednesday in January of every second year thereafter, and at no other place or time, unless as provided in this Constitution."

several counties, such powers of a local, legislative and administrative character as they may deem proper.

§ 39. The Legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the Gospel or teacher of religion.

§ 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

§ 41. The Legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person on account of his opinion or belief concerning matters of religion.

§ 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right.

§ 43. The Legislature shall pass no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

§ 44. The privilege of the writ of *habeas corpus* remains, and shall not be suspended by the Legislature, except in case of rebellion or invasion the public safety to require it.

§ 45. The assent of two-thirds of the members elected to each House of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

§ 46. The Legislature may authorize a trial by a jury of a less number than twelve men.

§ 47. The Legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

§ 48. The style of the laws shall be, "*The People of the State of Michigan enact.*"

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive power is vested in a Governor, who shall hold his office for two years. A Lieutenant-Governor shall be chosen for the same term.

§ 2. No person shall be eligible to the office of Governor or Lieutenant-Governor who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

§ 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing the members of the Legislature. The person having the highest number of votes for Governor or Lieutenant-Governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant-Governor, the Legislature shall, by joint vote, choose one of such persons.

§ 4. The Governor shall be Commander-in-Chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections and to repel invasions.

§ 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

§ 6. He shall take care that the laws be faithfully executed.

§ 7. He may convene the Legislature on extraordinary occasions.

§ 8. He shall give to the Legislature, and at the close of his official term to the next Legislature, information by message of the condition of the State, and recommend such measures to them as he shall deem expedient.

§ 9. He may convene the Legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

§ 10. He shall issue writs of election to fill vacancies as occur in the Senate or House of Representatives.

§ 11. He may grant reprieves, commutations, and pardons after convictions, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session information of each case of reprieve, commutation, or pardon granted, and the reasons therefor.

§ 12. In case of the impeachment of the Governor, his removal from office, death, inability, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability ceases. When the Governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

§ 13. During a vacancy in the office of Governor, if the Lieutenant-Governor die, resign, be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the President, *pro tempore*, of the Senate shall act as Governor until the vacancy be filled or the disability cease.

§ 14. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate. In committee of the whole he may debate all questions; and when there is an equal division, he shall give the casting vote.

§ 15. No member of Congress, nor any person holding office under the United States, or this State, shall execute the office of Governor.

§ 16. No person elected Governor or Lieutenant-Governor, shall be eligible to any office or appointment from the Legislature, or either House thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

§ 17. The Lieutenant [Governor] and President of the Senate *pro tempore*, when performing the duties of Governor, shall receive the same compensation as the Governor.

§ 18. All official acts of the Governor, his approval of the laws excepted, shall be authenticated by the Great Seal of the State, which shall be kept by the Secretary of State.

§ 19. All commissions issued to persons holding office under the provisions of this Constitution, shall be in the name and by the authority of the people of the State of Michigan, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The Judicial power is vested in one Supreme Court, in Circuit Courts, in Probate Courts, and in Justices of the Peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

§ 2. For the term of six years, and thereafter, until the Legislature otherwise provide, the Judges of the several Circuit Courts shall be Judges of the Supreme Court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the Legislature may provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this Constitution, to consist of one Chief Justice and three Associate Justices, to be chosen by the electors of the State. Such Supreme Court, when so organized, shall not be changed or discontinued by the Legislature for eight years thereafter. The Judges thereof shall

be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

§ 3. The Supreme Court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, *habeas corpus*, *mandamus*, *quo warranto*, *precedendo*, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

§ 4. Four terms of the Supreme Court shall be held annually, at such times and places as may be designated by law.

§ 5. The Supreme Court shall, by general rules, establish, modify, and amend the practice in such court and in the Circuit Courts, and simplify the same. The Legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of Master in Chancery is prohibited.

§ 6. The State shall be divided into eight judicial circuits; in each of which the electors thereof shall elect one Circuit Judge, who shall hold his office for the term of six years, and until his successor is elected and qualified.

§ 7. The Legislature may alter the limits of circuits, or increase the number of the same. No alteration or increase shall have the effect to remove a Judge from office. In every additional circuit established the Judge shall be elected by the electors of such circuit, and his term of office shall continue as provided in this Constitution for Judges of the Circuit Court.

§ 8. The Circuit Courts shall have original jurisdiction in all matters civil and criminal, not excepted in this Constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, *injunctions*, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

§ 9. Each of the Judges of the Circuit Courts shall receive a salary payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such Judge for any office other than judicial, given either by the Legislature or the people, shall be void.

§ 10. The Supreme Court may appoint a Reporter of its decisions. The decisions of the Supreme Court shall be in writing, and signed by the Judges concurring therein. Any Judge dissenting therefrom, shall give the reasons of such dissent in writing, under his signature.

All such opinions shall be filed in the office of the Clerk of the Supreme Court. The Judges of the Circuit Court, within their respective jurisdictions, may fill vacancies in the office of County Clerk and of Prosecuting Attorney; but no Judge of the Supreme Court, or Circuit Court, shall exercise any other power of appointment to public office.

§ 11. A Circuit Court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the Circuit Court may hold courts for each other, and shall do so when required by law.

§ 12. The Clerk of each county organized for judicial purposes shall be the Clerk of the Circuit Court of such county, and of the Supreme Court, when held within the same.

§ 13. In each of the counties organized for judicial purposes, there shall be a Court of Probate. The Judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

§ 14. When a vacancy occurs in the office of Judge of the Supreme Circuit or Probate Court, it shall be filled by appointment of the Governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

§ 15. The Supreme Court, the Circuit and Probate Courts of each county, shall be courts of record, and shall each have a common seal.

§ 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a Judge of the Circuit Court at chambers.

§ 17. There shall be not exceeding four Justices of the Peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township, they shall be classified as shall be prescribed by law. A Justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The Legislature may increase the number of justices in cities.

§ 18. In civil cases, Justices of the Peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions

as may be provided by law. They shall also have such criminal jurisdiction, and perform such duties as shall be prescribed by the Legislature.

§ 19. Judges of the Supreme Court, Circuit Judges, and Justices of the Peace, shall be conservators of the peace within their respective jurisdictions.

§ 20. The first election of Judges of the Circuit Courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judges at the regular elections herein provided.

§ 21. The first election of Judges of the Probate Court shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

§ 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a Justice of the Peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

§ 23. The Legislature may establish Courts of Conciliation, with such powers and duties as shall be prescribed by law.

§ 24. Any suitor in any court of this State shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

§ 25. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

§ 26. The person, houses, papers, and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

§ 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases, unless demanded by one of the parties, in such manner as shall be prescribed by law.

§ 28. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the

witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defense.

§ 29. No person, after acquittal upon the merits, shall be tried for the same offense; all persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

§ 30. Treason against the State shall consist only in levying war against [it,] or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

§ 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

§ 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

§ 33. No person shall be imprisoned for debt arising out of, or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

§ 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

§ 35. The style of all process shall be, "In the name of the People of the State of Michigan."

ARTICLE VII.

ELECTIONS.

SECTION 1. In all elections, every¹ male citizen, every¹ male inhabitant residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every¹ male inhabitant residing in this State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote;

¹ The word "white" stricken out at this place, by an amendment proposed April 5, 1869, and ratified at the general election in November, 1870, by a vote of 64,105 *for*, to 50,398 *against*.

but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote, ten days next preceding such election; [*Provided*, That in time of war, insurrection or rebellion, no qualified elector, in the actual military service of the United States, or of this State, in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward or State, in which he resides; and the Legislature shall have the power, and shall provide the manner in which, and the time and place at which, such absent electors may vote, and for the canvass and return of their votes to the township or ward election district, in which they respectively reside or otherwise.]

§ 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

§ 3. Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

§ 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

§ 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

§ 6. Laws may be passed to preserve the purity of elections, and guard against abuses of the elective franchise.

§ 7. No soldier, seaman nor marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

§ 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the Constitution and laws of this State, and shall not be permitted to vote at any election.

ARTICLE VIII.

STATE OFFICERS.

SECTION 1. There shall be elected at each general biennial election a Secretary of State, a Superintendent of Public Instruction, a State

¹ Amendment proposed by the Legislature of 1865, and approved by the people at the general election in November, 1866, by a vote of 86,354 for, to 13,094 against.

Treasurer, a Commissioner of the Land Office, an Auditor-General, an Attorney-General, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

§ 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

§ 3. Whenever a vacancy shall occur in any of the State offices, the Governor shall fill the same by appointment, by and with the advice and consent of the Senate, if in session.

§ 4. The Secretary of State, State Treasurer, and Commissioner of the State Land office, shall constitute a Board of State Auditors, to examine and adjust all claims against the State, not otherwise provided for by general law. They shall constitute a Board of State Canvassers, to determine the result of all elections for Governor, Lieutenant-Governor, and State officers, and of such other officers as shall by law be referred to them.

§ 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the Board of State Canvassers, the Legislature, in joint convention, shall choose one of said persons to fill such office. When the determination of the Board of State Canvassers is contested, the Legislature, in joint convention, shall decide which person is elected.

ARTICLE IX.

SALARIES.¹

SECTION 1. The Governor shall receive an annual salary of one thousand dollars; the Judges of the Circuit Court shall each receive an annual salary of one thousand five hundred dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the Auditor-General shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the Land Office shall receive an annual salary of eight hundred dollars; the Attorney-General shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever, for the performance of any duties connected with their offices. It shall not be competent for the Legislature to increase the salaries herein provided.

¹ By an amendment proposed on the 5th of April, 1869, but rejected by the people at the general election in November, 1870, by a vote of 36,109 *for*, to 68,912 *against*, the salaries would have been as follows: Governor, \$2,500; Judges of the Circuit Courts, \$2,000 each; State Treasurer, \$2,000; Auditor-General, \$2,000; Superintendent of Public Instruction, \$2,000; Secretary of State, \$2,000; Commissioner of the Land Office, \$2,000; and Attorney-General, \$2,000.

ARTICLE X.

COUNTIES.

SECTION 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings, by or against a county, shall be in the name thereof.

§ 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless in pursuance of law, a majority of electors residing in each county to be affected thereby shall so decide. The Legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

§ 3. In each organized county there shall be a Sheriff, a County Clerk, a County Treasurer, a Register of Deeds, and a Prosecuting Attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The Board of Supervisors in any county may unite the offices of County Clerk and Register of Deeds in one office, or disconnect the same.

§ 4. The Sheriff, County Clerk, County Treasurer, Judge of Probate, and Register of Deeds, shall hold their offices at the county seat.

§ 5. The Sheriff shall hold no other office, and shall be incapable of holding the office of Sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

§ 6. A Board of Supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

§ 7. Cities shall have such representation in the Board of Supervisors of the counties in which they are situated, as the Legislature may direct.

§ 8. No county seat, once established, shall be removed, until the place to which it is proposed to be removed shall be designated by two-thirds of the Board of Supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

§ 9. The Board of Supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public

buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year unless authorized by a majority of the electors of such county voting thereon.¹

§ 10. The Board of Supervisors, or, in the county of Wayne, the Board of County Auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all claims against their respective counties, and the sum so fixed or defined shall be subject to no appeal.

§ 11. The Board of Supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

ARTICLE XI.

TOWNSHIPS.

SECTION 1. There shall be elected annually, on the first Monday of April, in each organized township, one Supervisor, one Township Clerk, who shall be *ex officio* School Inspector, one Commissioner of Highways, one Township Treasurer, one School Inspector, not exceeding four Constables, and one Overseer of Highways for each highway district, whose powers and duties shall be prescribed by law.

§ 2. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township, shall be in the name thereof.

ARTICLE XII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

§ 2. Every impeachment shall be tried by the Senate. When the Governor or Lieutenant-Governor¹ is tried, the Chief Justice of the Supreme Court shall preside: When an impeachment is directed, the Senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment, in case of impeachment, shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

¹ An amendment was proposed by the Legislature April 5, 1869, for changing the sum mentioned in this section, to \$2,000. The electors of the State disapproved of it at the November election in 1870, by a vote of 39,180 *for*, to 61,904 *against*.

§ 3. When an impeachment is directed, the House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same.

§ 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

§ 5. The Governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

§ 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a Judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each House of the Legislature; but the cause for which such removal is required shall be stated at length in such resolution.

§ 7. The Legislature shall provide by law for the removal of any officer elected by a county, township or school district, in such manner and for such cause as to them shall seem just and proper.

[§ 8.¹ The Governor shall have power and it shall be his duty, except at such times as the Legislature may be in session, to examine into the condition and administration of any public office, and the acts of any public officer, elective or appointed; to remove from office for gross neglect of duty, or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following officers, to wit: The Attorney-General, State Treasurer, Commissioner of the Land Office, Secretary of State, Auditor-General, Superintendent of Public Instruction, or members of the State Board of Education, or any other officer of the State, except legislative and judicial, elective or appointed; and to appoint a successor for the remainder of their respective unexpired terms of office, and report the causes of such removal to the Legislature at its next session.]

ARTICLE XIII.

EDUCATION.

SECTION 1. The Superintendent of Public Instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

§ 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes, and the proceeds of all lands or other property given

¹ Amendment adopted by the Legislature of 1861, and approved by the people at general election of 1862. Vote for, 3,180; against, 1,273.

by individuals or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant, or appropriation.

§ 3. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

§ 4. The Legislature shall, within five years from the adoption of this Constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the State, and all instruction in said schools shall be conducted in the English language.

§ 5. A school shall be maintained in each school district at least three months in each year. Any school district neglecting to maintain such school shall be deprived for the ensuing year of its proportion of the income of the primary school fund, and of all funds arising from taxes for the support of schools.

[§ 6.¹ There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a Justice of the Supreme Court, eight Regents of the University, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a Justice of the Supreme Court thereafter, there shall be elected two Regents, whose term of office shall be eight years. When a vacancy shall occur in the office of Regent, it shall be filled by appointment of the Governor. The Regents thus elected shall constitute the Board of Regents of the University of Michigan.]

§ 7. The Regents of the University, and their successors in office, shall continue to constitute the body corporate, known by the name and title of "The Regents of the University of Michigan."

§ 8. The Regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a President of the University, who shall be, *ex officio*, a member of their Board, with the privilege of speaking, but not of voting. He shall preside at the meetings of

¹ This section was adopted as an amendment by the Legislature of 1861, and approved by the people at a general election in 1862 (vote *for*, 4,363; *against*, 1,901). By its insertion, the numbers of the succeeding sections of this article are set one forward from their original numbering. The section originally read as follows:

"There shall be elected in each Judicial Circuit, at the time of the election of the Judge of such circuit, a Regent of the University, whose term of office shall be the same as that of such Judge. The Regents thus elected shall constitute the Board of Regents of the University of Michigan."

the Regents, and be the principal Executive officer of the University. The Board of Regents shall have the general supervision of the University, and the direction and control of all expenditures from the University interest fund.

§ 9. There shall be elected at the general election, in the year one thousand eight hundred and fifty-two, three members of a State Board of Education, one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such Board, who shall hold his office for six years. The Superintendent of Public Instruction shall be, *ex officio*, a member and Secretary of such Board. The Board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

§ 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane, shall always be fostered and supported.

§ 11. The Legislature shall encourage the promotion of intellectual, scientific, and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. The Legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the Regents of the University.

§ 12. The Legislature shall also provide for the establishment of at least one Library in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws, shall be exclusively applied to the support of such libraries.

ARTICLE XIV.

FINANCE AND TAXATION.

SECTION 1. All specific State taxes, except those received from the mining companies of the Upper Peninsula, shall be applied in paying the interest upon the primary school, University, and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds, when such specific taxes shall be added to, and constitute a part of, the primary school interest fund. The Legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State

government, the interest of the State debt, and such deficiency as may occur in the resources.

§ 2. The Legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of six per cent per annum, and an annual increase of at least five per cent, to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

§ 3. The State may contract debts to meet deficits in revenue. Such debts shall not in the aggregate, at any one time, exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

§ 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

§ 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

§ 6. The credit of the State shall not be granted to, or in aid of, any person, association or corporation.

§ 7. No scrip, certificate or other evidence of State indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this Constitution.

§ 8. The State shall not subscribe to, or be interested in, the stock of any company, association or corporation.

§ 9. The State shall not be a party to, or interested in, any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property.

§ 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The Legislature may provide for the collection of specific taxes, from banking, railroad, plank-road, and other corporations hereafter created.

§ 11. The Legislature shall provide an uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.

§ 12. All assessments hereafter authorized shall be on property at its cash value.

§ 13. The Legislature shall provide for an equalization by a State board, in the year one thousand eight hundred and fifty-one, and every fifth year thereafter, of assessments on all taxable property, except that paying specific taxes.

§ 14. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE XV.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered, or repealed; [¹but the Legislature may, by a vote of two-thirds of the members elected to each House create a single bank with branches.]

§ 2. No [²general] banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.

§ 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits to circulate as money, shall be individually liable for all debts contracted during the time of their being officers or stockholders of such corporation or association, [³equally and ratably to the extent of their respective shares of stock in any such corporation or association.]

§ 4. [⁴For all banks organized under general laws,] the Legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered in State or United States stocks, bearing interest, which shall be deposited with the State Treasurer, for the redemption of such bills or notes in specie.

§ 5. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

¹ Amendment adopted by the Legislature of 1861, and approved by the people in 1862 at a general election, by the addition of the part embraced within the brackets. *Vote for*, 5,067; *against*, 1,644.

² Amendment adopted by the Legislature of 1860, and approved by the people at a general election in 1862. It originally read: "No banking law, or law for banking purposes, or amendments thereof, shall have effect," etc. *The vote for* was, 5,067; *against*, 1,644.

³ Amendment adopted by the Legislature in 1859, and approved by the people in 1860, at a general election, by the addition of the part embraced within the brackets. *Vote for*, 59,954; *against*, 15,477.

⁴ Adoption and vote, as in sections 1 and 2. The section originally read: "The Legislature shall provide by law for the registry of all bills," etc.

§ 6. The Legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association or corporation.

§ 7. The stockholders of all corporations and joint-stock associations shall be individually liable for all labor performed for such corporation or association.

§ 8. The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each House; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

§ 9. The property of no person shall be taken by any corporation for public use without compensation being first made or secured, in such manner as may be prescribed by law.

§ 10. No corporation, except for municipal purposes, or for the construction of railroads, plank-roads, and canals, shall be created for a longer time than thirty years.

§ 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue, and be subject to be sued, in all courts, in like cases as natural persons.

§ 12. No corporation shall hold any real estate hereafter acquired for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

§ 13. The Legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

§ 14. Judicial officers of cities and villages shall be elected, and all other officers shall be elected or appointed, at such time and in such manner as the Legislature may direct.

§ 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders, and actually paid or secured in the manner provided by law.

§ 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE XVI.

EXEMPTIONS.

SECTION 1. The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this Constitution.

§ 2. Every homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city, or village; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling-house thereon and its appurtenances, owned and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this Constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage, or other alienation of such land, by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

§ 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts, contracted after the adoption of this Constitution, in all cases, during the minority of his children.

§ 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

§ 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterward become entitled, by gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband; and may be devised or bequeathed by her as if she were unmarried.

ARTICLE XVII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied male¹ citizens between the ages of eighteen and forty-five years, except such

¹ The word "white," before this word was stricken out by an amendment proposed April 5, 1869, and ratified at the general election in November, 1870, by a vote of 54,105 *for*, to 50,398 *against*.

as are exempted by the laws of the United States or of this State; but all such citizens of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

§ 2. The Legislature shall provide by law for organizing, equipping, and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

§ 3. Officers of the militia shall be elected or appointed, and be commissioned, in such manner as may be provided by law.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. Members of the Legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

§ 2. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a Court of Record, as shall be prescribed by law. [*Provided*, the foregoing provisions shall in no case be construed to apply to the action of commissioners of the highways in the official discharge of their duties as highway commissioners.]

§ 3. No mechanical trade shall hereafter be taught to convicts in the State Prison of this State, except the manufacture of those articles, of which the chief supply for home consumption is imported from other States or countries.

§ 4. No navigable stream in this State shall be either bridged or dammed without authority from the Board of Supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such stream.

¹ Amendment adopted by the Legislature of 1859, and approved by the people, in 1860, at a general election. Vote *for*, 62,963; *against*, 8,054. The part in brackets was added at this time.

§ 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws, at every regular session of the Legislature.

§ 6. The laws, public records, and the written judicial and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

§ 7. Every person has a right to "bear arms for the defense of himself and the State.

§ 8. The military shall, in all cases and at all times, be in strict subordination to the civil power.

§ 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor, in time of war, except in a manner prescribed by law.

§ 10. The people have a right peaceably to assemble together to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

§ 11. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

§ 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

§ 13. Aliens who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native born citizens.

§ 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.

§ 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the Legislature, in joint convention, shall appoint a suitable person to collect together such acts and parts of acts as are in force, and without alteration, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the Governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE XIX.

UPPER PENINSULA.

SECTION 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron and Michigan, and in Green Bay, and the Straits of Mackinac and the River Ste. Marie, shall constitute a separate judicial district, and be entitled to a District Judge and District Attorney.

§ 2. The District Judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a Circuit Judge in his circuit, and shall hold his office for the same period.

§ 3. The District Attorney shall be elected every two years by the electors of the district, and shall perform the duties of Prosecuting Attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

§ 4. Such judicial districts shall be entitled at all times to at least one Senator, and until entitled to more by its population, it shall have three members of the House of Representatives, to be apportioned among the several counties by the Legislature.

§ 5. The Legislature may provide for the payment of the District Judge a salary not exceeding one thousand dollars a year, and of the District Attorney not exceeding seven hundred dollars a year, and may allow extra compensation to the members of the Legislature from such territory, not exceeding two dollars a day during any session.

§ 6. The elections for all district or county officers, State Senator or Representatives, within the boundaries defined in this article, shall take place on the [Wednesday succeeding the first Monday of November, in the respective years in which they may be required; the county canvass shall be held on the first Monday thereof, and the district canvass on the third Monday of the said November.]

§ 7. One-half of the taxes received into the Treasury for mining corporations in the Upper Peninsula, paying an annual State tax of one per cent, shall be paid to the Treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The Legislature shall have power, after the year

¹ Amendment adopted by the Legislature of 1861, and approved in 1862 by the people at a general election—vote *for*, 5,193; *against*, 1,440; the latter part of the section originally read: "Shall take place on the last Tuesday in September in the respective years in which they may be required. The county canvass shall be held on the first Monday in October thereafter, and the district canvass on the last Tuesday of said October."

one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

§ 8. The Legislature may change the location of the State Prison from Jackson to the Upper Peninsula.

§ 9. The charters of the several mining corporations may be modified by the Legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE XIX—(A.¹)

RAILROADS.

SECTION 1. The Legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this State; and shall prohibit running contracts between such railroad companies, whereby discrimination is made in favor of either of such companies as against other companies owning, connecting, or intersecting lines of railroads.

§ 2. No railroad corporation shall consolidate its stock, property, or franchises, with any other railroad corporation owning a parallel or competing road; and in no case shall any consolidation take place, except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

ARTICLE XX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same shall be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the electors at the next general election

¹ This article was proposed as an amendment, by joint resolution of the Legislature, on the 10th of August, 1870, and ratified by the people at a general election, held on the 8th of November, 1870, by a vote of 73,602 *for*, to 51,397 *against*, the first section, and of 76,912 *for*, to 51,198 *against*, the second section. A third section submitted at the same time, and rejected by a vote of 50,078 *for*, to 78,453 *against*, would have been as follows, had it been ratified:

“§ 3. The Legislature may provide by law for the payment, by the counties, townships and municipalities of this State, of all bonds or other obligations heretofore issued or incurred in pursuance of acts of the Legislature by such counties, townships and municipalities severally, for and in aid of any railroad company. Such bonds or obligations shall be paid by the county, township, or municipality issuing or incurring the same; and in no event shall the State pay, or become liable for, any portion of such bonds or obligations. The Legislature shall submit to the electors of each of said several counties, townships and municipalities, for their decision, the question of payment, together with the mode and manner of the same.”

thereafter, and if a majority of the electors qualified to vote for members of the Legislature, voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the Constitution.

§ 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the Legislature may by law provide, the question of a general revision of the Constitution shall be submitted to the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a Convention for such purpose, the Legislature, at the next session, shall provide by law for the election of [such] delegates to such Convention. All the amendments shall take effect at the commencement of the year after their adoption.

SCHEDULE.

That no inconvenience may arise from the changes in the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that:

SECTION 1. The common law and the statute laws now in force, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature.

§ 2. All writs, actions, causes of action, prosecutions, and rights of individuals and of bodies corporate, and of the State, and all charters of incorporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offense committed before the adoption of this Constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this Constitution had not been adopted, and until the organization of the Judicial Department under this Constitution.

§ 3. That all fines, penalties, forfeitures, and escheats, accruing to the State of Michigan under the present Constitution and laws, shall accrue to the use of the State under this Constitution.

§ 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to the people of the State of Michigan, to any State, county, or township, or any public officer or public body, or which may be entered

¹ Amended by the addition of the word "such," and the omission of the word "political" before "year," near the end of the section proposed by Legislature of 1861, and approved by the people at an election in 1862, by a vote of 9,376 to 1,806.

into or executed, under existing laws, "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this Constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors, and penal actions, shall be tried, punished, and prosecuted, as though no change had taken place, until otherwise provided by law.

§ 5. A Governor and Lieutenant-Governor shall be chosen under the existing Constitution and laws, to serve after the expiration of the term of the present incumbent.

§ 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this Constitution.

§ 7. The members of the Senate and House of Representatives of the Legislature of one thousand eight hundred and fifty-one, shall continue in office under the provisions of law, until superseded by their successors elected and qualified under this Constitution.

§ 8. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification, and duties of township officers, shall continue in force until the Legislature shall, in conformity to the provisions of this Constitution, provide for the holding of elections to fill such offices and prescribe the duties of such officers respectively.

§ 9. On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the Judges of the Supreme Court, under existing laws, and of the Judges of the County Courts, and of the Clerks of the Supreme Court, shall expire on the said day.

§ 10. On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present Supreme Courts, shall become vested in the Supreme Court established by this Constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the Circuit Courts and County Courts for the several counties, shall become vested in the Circuit Courts of the said counties, and District Court for the Upper Peninsula.

§ 11. The Probate Courts, the Courts of Justices of the Peace, and the Police Court, authorized by an act entitled "An act to establish a Police Court in the city of Detroit," approved April second, one

thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

§ 12. The office of State Printer shall be vested in the present incumbent, until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges, and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

§ 13. It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this Constitution, as far as may be.

§ 14. The Attorney-General of the State is required to prepare and report to the Legislature, at the commencement of the next session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this Constitution, and as may be best calculated to carry into effect its provisions; and he shall receive no additional compensation therefor.

§ 15. Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming a part of such county, so far as regards elections for the purpose of representation.

§ 16. This Constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice, as provided by law in case of an election of Governor, that this Constitution has been duly submitted to the electors at said election. Every newspaper within this State publishing, in the month of September next, this Constitution as submitted, shall receive, as compensation therefor, the sum of twenty-five dollars, to be paid as the Legislature shall direct.

§ 17. Any person entitled to vote for members of the Legislature, by the Constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this Constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the Legislature.

§ 18. At the said general election, a ballot box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or

against the adoption of this Constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the Constitution—yes," or "Adoption of the Constitution—no."

§ 19. The canvass of the votes cast for the adoption or rejection of this Constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof, shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for Governor, as near as may be, and the return thereof shall be directed to the Secretary of State. On the sixteenth day of December next, or within five days thereafter, the Auditor-General, State Treasurer, and Secretary of State, shall meet at the Capitol, and proceed, in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon, "Adoption of the Constitution—yes," this Constitution shall be the supreme law of the State from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon, "Adoption of the Constitution—no," the same shall be null and void. And in case of the adoption of this Constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for Judges of the Supreme Court and State officers, under the act entitled, "An act to amend the Revised Statutes and to provide for the election of certain officers by the people, in pursuance to an amendment to the Constitution, approved February sixteenth, one thousand eight hundred and fifty," and shall ascertain, determine, and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected may be qualified and enter upon the duties of their respective offices, on the first Monday of January next, or as soon thereafter as practicable.

§ 20. The salaries or compensation of all persons holding office under the present Constitution, shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this Constitution; and it shall not be lawful hereafter for the Legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

§ 21. The Legislature, at their first session, shall provide for the payment of all expenditures of the Convention to revise the Constitution, and of the publication of the same as is provided in this article.

§ 22. Every county, except Mackinaw and Chippewa, entitled to a Representative in the Legislature, at the time of the adoption of this Constitution, shall continue to be so entitled under this Constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one Representative; the county of Tuscola, and the territory that may be attached, one Representative; the county of Sanilac, and the territory that may be attached, one Representative; the counties of Midland and Aronac, with the territory that may be attached, one Representative; the county of Montcalm, with the territory that may be attached thereto, one Representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one Representative. Each county having a ratio of representation, and a fraction over equal to a moiety of said ratio, shall be entitled to two Representatives, and so on above that number, giving one additional member for each additional ratio.

§ 23. The cases pending and undisposed of in the late Court of Chancery at the time of the adoption of this Constitution, shall continue to be heard and determined by the Judges of the Supreme Court. But the Legislature shall, at its session in one thousand eight hundred and fifty-one, provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the Supreme or Circuit Court established by this Constitution, or require that the same may be heard and determined by the Circuit Judges.

§ 24. The term of office of Governor and Lieutenant-Governor shall commence on the first day of January next after their election.

§ 25. The territory described in the article entitled "Upper Peninsula," shall be attached to and constitute a part of the third circuit for the election of a Regent of the University.

§ 26. The Legislature shall have authority, after the expiration of the term of office of the District Judge first elected for the "Upper Peninsula," to abolish said office of District Judge and District Attorney, or either of them.

§ 27. The Legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the Representatives among the several counties and districts, and divide the State into Senate districts, pursuant to the provisions of this Constitution.

§ 28. The terms of office of all State and county officers, of the Circuit Judges, members of the Board of Education, the members of

the Legislature, shall begin on the first day of January next succeeding their election.

§ 29. The State, exclusive of the Upper Peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee and Hillsdale shall constitute the first circuit; the counties of Branch, St. Joseph, Cass and Berrien shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson and Ingham shall constitute the fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Eaton and Van Buren shall constitute the fifth circuit; [the] counties of St. Clair, Macomb, Oakland and Sanilac shall constitute the sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola and Midland shall constitute the seventh circuit; and the counties of Barry, Kent, Ottawa, Ionia, Clinton and Montcalm shall constitute the eighth circuit.

RESOLUTION.

SECTION 30. At the next general election, and at the same time when the votes of the electors shall be taken for the adoption or rejection of this Constitution, an additional amendment to section one of article seven, in the words following:

“Every colored male inhabitant possessing the qualifications required by the first section of the second article of the Constitution, shall have the rights and privileges of an elector,”

Shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised Constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words “Equal suffrage to colored persons? Yes;” and upon all ballots given against the adoption of the said separate amendment, in like manner, the words “Equal suffrage to colored persons? No.” And on such ballots shall be written or printed, or partly written and partly printed, the words “Constitution: Suffrage,” in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words, “Equal suffrage to colored persons? Yes,” then there shall be inserted in the first section of the article, between the words “tribe and shall,” these words, “and every colored male inhabitant,” any thing in the Constitution to the contrary notwithstanding.

Done in Convention, at the Capitol of the State, this fifteenth day of August, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

D. GOODWIN, *President.*

<i>Allegan.</i>	<i>Ionia.</i>	<i>Monroe.</i>
Oka Town.	Henry Bartow,	Robert McClelland,
<i>Barry.</i>	Cyrus Lovell.	H. B. Marvin,
Joseph W. T. Orr.	<i>Jackson.</i>	Emerson Choate,
<i>Berrien.</i>	Robert H. Anderson,	A. M. Arzeno.
Jacob Beeson,	John L. Butterfield,	<i>Oakland.</i>
Calvin Britain,	Jerry G. Cornell,	Wm. Axford,
Charles W. Whipple.	Elisha S. Robinson,	A. H. Hanscom,
<i>Branch.</i>	Wilbur F. Storey.	Z. M. Mowry
Wales Adams,	<i>Kalamazoo.</i>	Seneca Newbury,
Asahel Brown.	Volney Hascall.	James Webster,
<i>Calhoun.</i>	<i>Kent and Ottawa.</i>	Gideon O. Whittimore,
Isaac E. Crary,	Thomas B. Church,	Elias S. Woodman,
W. V. Morrison,	Rix Robinson.	Jacob Van Valkenburgh.
John D. Pierce,	<i>Lapeer.</i>	<i>Shiawassee.</i>
Nathan Pierce,	N. H. Hart,	Francis J. Prevost.
Milo Soule.	Joseph R. White.	<i>St. Joseph.</i>
<i>Cass.</i>	<i>Lenawee.</i>	E. S. Moore,
George Redfield.	Charles Chandler,	William Conner,
<i>Clinton.</i>	Addison J. Comstock,	J. R. Williams.
David Sturgis.	Ebenezer Daniels,	<i>Washtenaw.</i>
<i>Eaton.</i>	Nelson Green,	W. S. Carr,
Charles E. Beardsley,	George C. Harvey.	J. M. Edmunds,
J. D. Burns.	<i>Livingston.</i>	E. P. Gardiner,
<i>Genesee.</i>	Eli Barnard,	James Kingsley,
John Bartow,	Robert Crouse,	Morgan O'Brien,
Elbridge G. Gale,	D. S. Lee,	E. M. Skinner,
De Witt C. Leach.	Robert Warden, Jr.	B. W. Wait.
<i>Hillsdale.</i>	<i>Mackinac.</i>	<i>Wayne.</i>
D. Kinne,	Wm. Norman McLeod.	Henry J. Alvord,
John Mosher.	<i>Macomb.</i>	Joseph H. Bagg,
<i>Ingham.</i>	C. W. Chapel,	Ammon Brown,
Charles P. Bush,	A. S. Robertson,	Peter Desnoyer,
Ephraim B. Danforth.	D. C. Walker.	Ebenezer E. Eaton,
		Henry Fralick,
		John Gibson.

JOHN SWEGLES, JR.,
 HORACE S. ROBERTS,
 CHARLES HASCALL, } *Secretaries.*



MINNESOTA.

The area included within the present State of Minnesota was mostly embraced within the great Louisiana purchase of April 30, 1803. The eastern portion was a part of the "Territory of the United States northwest of the Ohio river," established in 1787. On the formation of Indiana Territory, in 1800, this part came within that Territory, and, in 1809, it was included in Illinois Territory. The Louisiana part was included in the "District of Louisiana," March 26, 1804, and in the "Territory of Louisiana," March 3, 1805. On the 4th of June, 1812, the latter name was changed to the "Territory of Missouri," and thus remained until the admission of Missouri as a State, in 1821, when the remainder of Missouri Territory was left, for some years, without special provision for its government. In 1818 the northern part of Illinois Territory was annexed to Michigan Territory, and, on the 28th of June, 1834, the region between the Mississippi river on the east, and the Missouri and White Earth rivers on the west, was also attached to Michigan Territory.

On the 28th of April, 1836, Wisconsin Territory was formed, including all of the Territory of Michigan, west of Lake Michigan, excepting the "Upper Peninsula."

The Territory of Iowa was formed from the Territory of Wisconsin, June 12, 1838, the dividing line being the Mississippi river, and a line running due north from its source to the national boundary.

The State of Iowa was admitted into the Union, December 28, 1846, including all of the former Territory of Iowa, south of 43° 30' N. lat., between the Mississippi river on the east, and the Missouri and Big Sioux rivers on the west. The remainder of the Territory was left nearly a year without special organization.

On the 29th of May, 1848, the State of Wisconsin was admitted into the Union, and its northwestern boundary, as defined by the enabling act of Congress, August 6, 1846, was fixed, and described as "running from the mouth of the St. Louis river up the main channel to the first rapids in the same, above the Indian village, according to Nicolle's map; thence due south to the main branch of the river St. Croix, and thence down the same to the Mississippi." Provision was made for the survey of this line Sept. 30, 1850.

The Territory of Minnesota was formed March 3, 1849, bounded easterly by Lake Superior and the States of Wisconsin and Iowa, and on the west by the Missouri and White-Earth rivers.

After continuing several years under a territorial government, various projects began to be discussed for the division of the Territory, and the formation of a State. Influenced by local considerations, and an ambition to secure the location of a seat of government favorable to their interests, some proposed its division by an east and west line, in which event St. Peter would probably have been the seat of the new State government. If a north and south line were adopted, there was less probability that it would be removed from Saint Paul, where it had been located by the organic law of Congress, and continued by the Territorial Legislature.

In the winter of 1856-7, a bill was introduced in Congress, and on the 26th of February, 1857, passed and approved, for the division of the Territory by a line commencing on the national boundary, and following southward up the main

channel of the Red River of the North, and Boix des Sioux river, to the southern point of Lake Travers, thence to the head of the Big Stone lake, and through its center to its outlet, and from thence due south to the line of Iowa. The inhabitants of the territory east of this line were authorized to form a State government, and, upon the acceptance of certain conditions, were to be admitted into the Union with all the powers and privileges of a State. The Territorial Legislature had not asked for admission upon such a condition, nor indeed upon any other; and this action of Congress gave great offense to many, including a majority of the Territorial Legislature, who decided to adopt the three following measures to secure their favorite object, of a division by an east and west line, running from the Mississippi to the Missouri rivers, whenever the Territory should be divided, viz.:

1st. To memorialize Congress against the line of the Red River of the North, and asking to be permitted to define their own boundaries;

2d. The removal of the Capitol to a more westerly point; and,

3d. The passage of an apportionment bill for the election of Delegates to the Constitutional Convention, based upon a new census of the Territory, in order that the actual population might be truly represented in that body.

In pursuance of this plan, an act was passed by both Houses for the removal of the seat of government to St. Peter. The bill was enrolled and passed in the hands of the chairman of the Committee on Engrossed Bills, in the Legislative Council, who, being violently opposed to its passage, neglected or refused to report it.

Near the end of the session, the member next on the committee was instructed to procure a copy of the bill (which its friends had secured), upon which the chairman, having the original bill in his possession, disappeared. A call of the Council was ordered, which continued five days and nights, but neither the missing member nor the original bill could be found. At length a copy of the bill, certified by the clerks of both Houses, was laid before the presiding officer of the Legislative Council, but he refused to sign it, and, instead of doing so, wrote on the back thereof a variety of objections, which the friends of the bill regarded as frivolous and false.

These efforts to oppose the division line prescribed in the enabling act by Congress failed, although efforts were made in Convention to submit the question of the parallel of 45° 30' north latitude from the Mississippi to the Missouri rivers, for the people to decide at an election. As for the removal of the seat of government, it remained for some time uncertain whether the act of the Territorial Legislature, passed without the signature of the President of the Council, was valid or not; but this doubt was solved by the Constitution itself, soon afterward adopted, which fixed the location at Saint Paul, but subject to the future action of the State Legislature and of the people.

An election of Delegates was to be held on the first Monday of June, 1857, and the Delegates so elected were authorized to assemble at the Capitol of said Territory on the second Monday in July, and first determine by a vote, whether it was the wish of the people of the proposed State to be admitted into the Union at that time; and, if so, to proceed to form a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State. The number of Delegates to this Convention was to be twice that of the Representatives in the Territorial Legislature, which the people of Minnesota construed to mean twice the number of members in both Houses. Upon this construction, one hundred and eight Delegates were elected upon the basis of apportionment then existing, the census ordered by the enabling act not being taken until after the Convention had been elected, and

had decided upon the expediency of forming a State government at that time.

This election was held, and as the time of meeting approached, the Delegates assembled at Saint Paul. No hour had been fixed for meeting, and late on Sunday evening, a little before midnight, as the appointed day was to begin, the Republican Delegates, fearing that the Democrats might anticipate them, and elect the officers of the Convention, proceeded to the Capitol. But a few moments before twelve o'clock A. M., on Monday the 13th of July, the Secretary of the Territory appeared at the Speaker's seat, and began to call the body to order. At the same time, a Delegate (T. W. North), who had in his possession a written request from a majority of the Delegates present, proceeded to do the same.

The Secretary put a motion to adjourn, and the Democratic Delegates present, voting in the affirmative, left the hall. The Republicans, believing themselves a majority, remained, and in due time organized, and proceeded to business. The Democratic portion, having adjourned to meet at the Hall of Representatives, on the next day at noon, were met at the door by the Secretary of the Territory (also a Delegate), who announced that their place for meeting was "now occupied by a meeting of the citizens of the Territory, who refuse to give possession to the Constitutional Convention." Upon this they adjourned to the Council Chamber, and proceeded to complete their organization.

The two bodies, each claiming to be the true Convention, continued their separate sessions, and proceeded to form a Constitution. The proceedings throughout were quiet, orderly and decorous, and, from the peculiar circumstances of the case, there was much greater harmony in the discussions of each body than is usual in such assemblies.

The number of Delegates who sat in the Republican branch of the Convention was 58, and that in the Democratic, 55. As the total number allowed was but 108, it appears that five contested seats were held by both claimants in one or the other body. The dispute upon the right of certain delegates to seats, is alleged, in a subsequent communication to Congress,¹ as a principal cause of the separation.

On the 10th of August, the twenty-fifth day of their session, the following resolution was unanimously adopted by the Republican branch of the Convention:

"Whereas, The persons who were elected by the people of this Territory to represent them in a Constitutional Convention, having met at this Capitol on the day appointed by law for such meeting, and having disagreed upon some questions which arose in the course of forming a temporary organization, separated and formed two distinct Conventions, in numbers nearly equal, and are now forming two separate and distinct Constitutions to be presented to the people; and,

"Whereas, Proceedings so extraordinary in their character will have a tendency to injure the reputation of our people—to lessen the confidence of the other States in our integrity, stability and patriotism, and place us in a false position before the world; therefore,

"Resolved, That a committee of five be appointed by the President of this Convention to confer with a committee of an equal number, if appointed, of the duly elected members of that portion of them who are acting separately from us; and that it shall be the duty of such committee to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people."

¹ Senate Reports, 1st sess., 35th Congress; vol. 1, No. 21.

Messrs. *Galbraith, McClure, Stannard, Aldrich and Wilson* were appointed on this conference committee by the Republican branch, and, on the 18th, Messrs. *Gorman, Brown, Holcombe, Sherburne and Kingsbury* by the Democratic. This committee succeeded in arranging upon measures of compromise, and, on the 29th of August, agreed upon the same Constitution, in duplicate, which was reported to the two Conventions still in separate session. The copy reported to the Republican branch was adopted on the 28th, and signed on the 29th of August. That reported to the Democratic branch was adopted on the 29th, and signed the same day.

The sessions remained separate till the end, and each party published the Constitution separately, with the names of its own officers and Delegates only. Their debates and proceedings were also published in separate volumes; that of the Democratic branch being an octavo of 685, and that of the Republican, 624 pages.

This Constitution, so remarkably formed, was submitted to the people at an election held on the 13th of October, 1857, and ratified with a unanimity unprecedented in the history of American Constitutions. By the "Canvassers' Return," made up by the Board of Canvassers, designated in the schedule, from the returns of the Register (who, in several instances, failed to return the votes for and against the Constitution), the result gave 30,055 *for*, to 571 *against*, adoption. By the "Precinct Returns," which included the whole vote of the State, as returned to the Secretary's office, so far as these were received (and where these failed to show the full vote, the Register's canvass was taken), the result was 36,240 *for*, to 700 *against*, adoption. Both parties had made their nominations, for State and county officers, before this time, and the first election was held on the same day that the Constitution was ratified. The Legislature, thus chosen, met and organized on the 2d of December, 1857.

The census ordered in the enabling act, and dated September 21, 1857, gave the total population of the State, at that time, as 150,092. The State was admitted into the Union by an act of Congress, approved May 11, 1858, and entitled to two Representatives until the next apportionment of representation among the States. The laws of the United States were extended over the new State, and a District Court was established within the same.

CONSTITUTION OF MINNESOTA, 1857-58.

SUMMARY.

ARTICLES.

- I. Bill of Rights.
- II. On Name and Boundaries.
- III. Distribution of the Powers of Government.
- IV. Legislative Department.
- V. Executive Department.
- VI. Judiciary.
- VII. Elective Franchise.
- VIII. School Funds — Education and Science.
- IX. Finances of the State and Banks and Banking.
- X. Of Corporations having no Banking Privileges.
- XI. Counties and Townships.
- XII. Of the Militia.
- XIII. Impeachment and Removal from Office.
- XIV. Miscellaneous Subjects. Schedule.

PREAMBLE.

ARTICLE I. — *Bill of Rights.*

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1. Object of government — origin of political power — right to change government.
2. No disfranchisement or deprivation of rights but by law — slavery forbidden.
3. Freedom of the press.
4. Right of trial by jury — may be waived by the parties.
5. Excessive bail or fines — cruel punishments.
6. Rights of persons accused of crime — witnesses — counsel.
7. Trial by indictment — exceptions — second trial forbidden — witness against one's self — right of bail — writ of *habeas corpus*.
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11. Attainder — *ex post facto* laws — contracts — corruption of blood — forfeitures.
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4. Rules of proceeding — punishment of members — expulsion.
5. Presiding officer — other officers — journals — yeas and nays, when recorded.
6. Adjournments.
7. Pay of Senators and Representatives.
8. Privilege of members — freedom of legislative debate.
9. Members not to hold office under United States — not to hold certain State offices.
10. Bills for revenue to originate in House — may be amended in Senate.
11. Bills to be signed by Governor — veto power limited — two-thirds of each House may pass bills over veto — final passage — yeas and nays — bills to be filed with Secretary of State.
12. No money to be appropriated but by bill — orders, etc., requiring concurrence of both Houses — to be signed by Governor.
13. Style of laws — must be passed by majority — vote to be entered on journals.
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15. Laws may exclude from voting on account of bribery, perjury, or other crime.
16. Right of dissent and protest.
17. Election to fill vacancies — contested seats.
18. Power over persons not members.
19. Doors to be open.
20. Bills to be read on three different days.
21. Enrollment and signature of bills — penalty for refusing to sign bills.
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23. Census to be taken in 1865, and once in ten years after — re-apportionment.
24. Senators to be chosen by single districts — how numbered — how classed — terms.
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27. Laws to embrace but one subject — expressed in title.
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6. Judges to be men learned in the law—salaries—not to be increased or diminished during term.
7. Probate Courts—Judge—term—to reside in county—clerk—jurisdiction.
8. Justices of the Peace—term—compensation—limit of jurisdiction.
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14. Style of process—ending of indictments.
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6. Debts, when payable—registry of bonds.
7. Cases in which larger debt may be created.
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PREAMBLE.

WE, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify, or reform such government, whenever the public good may require it.

§ 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

§ 3. The liberty of the press shall forever remain inviolate, and all persons may freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of such right.

§ 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

§ 5. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishment be inflicted.

§ 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtain-

ing witnesses in his favor, and to have the assistance of counsel in his defense.

§ 7. No person shall be held to answer for a criminal offense unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by Justices of the Peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger, and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to [be] witness against himself, nor be deprived of life, liberty, or property without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privileges of the writ of *habeas corpus* shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require.

§ 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay; conformably to the laws.

§ 9. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 10. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

§ 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

§ 12. No person shall be imprisoned for debt in this State, but this State shall not prevent the Legislature from providing for imprisonment, or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability; the amount of such exemption shall be determined by law.

§ 13. Private property shall not be taken for public use without just compensation therefor, first paid or secured.

§ 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

§ 15. All the lands within this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

§ 16. The enumeration of rights in this Constitution, shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any religious or ecclesiastical ministry against his consent, nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

§ 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE II.

ON NAME AND BOUNDARIES.

SECTION 1. This State shall be called and known by the name of the State of Minnesota, and shall consist of, and have jurisdiction over, the territory embraced in the following boundaries, to wit: Beginning at the point in the center of the main channel of the Red river of the North, where the boundary line between the United States and the British Provinces crosses the same; thence up the main channel of said river to that of the Bois des Sioux river; thence up the main channel of said river to Lake Traverse; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi river; thence up the main channel of said river, and following the boundary line of the State of Wisconsin, until the same intersects the St. Louis river; thence down

the said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British Possessions; thence up Pigeon river, and following said dividing line to the place of beginning.

§ 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and on all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed by the same; and said river and waters, and navigable waters leading into the same, shall be the common highways, and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor.

§ 3. The propositions contained in the act of Congress, entitled "An act to authorize the people of the Territory of Minnesota to form a Constitution and State government preparatory to their admission into the Union on an equal footing with the original States," are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to *bona fide* purchasers thereof; and no tax shall be imposed on land belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents.

ARTICLE III.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of government shall be divided into three distinct departments, the Legislative, Executive and Judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this Constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislature of the State shall consist of a Senate and House of Representatives, who shall meet at the seat of government of the State, at such time as shall be prescribed by law.

§ 2. The number of members who shall compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed one member for every five

thousand inhabitants, and in the House of Representatives one member for every two thousand inhabitants. The representation in both Houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

§ 3. Each House shall be a judge of the election returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

§ 4. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offense.

§ 5. The House of Representatives shall elect its presiding officer, and the Senate and House of Representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

§ 6. Neither House shall, during a session of the Legislature, adjourn for more than three days (Sundays excepted), nor to any other place than that in which the two Houses shall be assembled, without the consent of the other House.

§ 7. The compensation of Senators and Representatives shall be three dollars per diem, during the first session, but may afterward be prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

§ 8. The members of each House shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective Houses, and in going to or returning from the same. For any speech or debate in either House they shall not be questioned in any other place.

§ 9. No Senator or Representative shall, during the time for which he is elected, hold any office under the authority of the United States, or the State of Minnesota, except that of postmaster; and no Senator or Representative shall hold an office under the State, which had been created, or the emoluments of which had been increased, during the session of the Legislature of which he was a member, until one year after the expiration of his term of office in the Legislature.

§ 10. All bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments, as on other bills.

§ 11. Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House, and the joint rules of the two Houses, shall, before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of State for preservation, and notify the House where it originated of the fact. But if not he shall return it, with his objections, to the House in which it shall have originated, when such objections shall be entered at large on the journal of the same, and the House shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if it be approved by two-thirds of that House it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevent its return, in which case it shall not be a law. The Governor may approve, sign, and file in the office of the Secretary of State, within three days after the adjournment of the Legislature, any act passed during the three last days of the session, the same shall become a law.

§ 12. No money shall be appropriated except by bill. Every order, resolution or vote requiring the concurrence of the two Houses (except such as relate to the business or adjournment of the same), shall be presented to the Governor for his signature, and before the same shall take effect, shall be approved by him, or being returned by him with his objections, shall be repassed by two-thirds of the members of the two Houses, according to the rules and limitations prescribed in case of a bill.

§ 13. The style of all laws of this State shall be: "*Be it enacted by the Legislature of the State of Minnesota.*" No law shall be passed unless voted for by a majority of all the members elected to each branch of the Legislature, and the vote entered upon the journal of each House.

§ 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. No

person shall be convicted without the concurrence of two-thirds of the members present.

§ 15. The Legislature shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

§ 16. Two or more members of either House shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the journal.

§ 17. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature. The Legislature shall prescribe by law the manner in which evidence in cases of contested seats in either House shall be taken.

§ 18. Each House may punish by imprisonment, during its session, any person, not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

§ 19. Each House shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

§ 20. Every bill shall be read on three different days in each separate House, unless in case of urgency two-thirds of the House where such bill is depending shall deem it expedient to dispense with this rule, and no bill shall be passed by either House until it shall have been previously read twice at length.

§ 21. Every bill, having passed both Houses, shall be carefully enrolled, and shall be signed by the presiding officer of each House. Any presiding officer refusing to sign a bill which shall have previously passed both Houses, shall thereafter be incapable of holding a seat in either branch of the Legislature, or hold any other office of honor or profit in the State,¹ and in case of such refusal, each House shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the Governor.

§ 22. No bill shall be passed by either House of the Legislature upon the day prescribed for the adjournment of the two Houses. But this section shall not be so construed as to preclude the enrollment of a bill, or the signature and passage from one House to the other, or the reports thereon from committees, or its transmission to the Executive for his signature.

¹ This clause compelling a presiding officer, under severe penalties, to sign bills passed by the House over which he presides, owes its origin to the incident mentioned in our historical sketch relative to an attempt to remove the Capitol. It was held by those who favored the introduction of this clause, that if the signature of a presiding officer was indispensable to the validity of an act, then he might, by an arbitrary refusal, defeat the will of both Houses, even where their vote had been unanimous, and thus exercise a more absolute control of legislation than the Governor himself, whose veto power was limited, and might be neutralized by a sufficient vote of both Houses. Other members of the Convention opposed its introduction, and insisted that the subject came within the province of the rules of the Legislature.

§ 23. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of Congressional, Senatorial and Representative districts, and to apportion anew the Senators and Representatives among the several districts, according to the provisions of section second of this article.

§ 24. The Senators shall also be chosen by single districts of convenient contiguous territory, at the same time that the members of the House of Representatives are required to be chosen, and in the same manner, and no Representative district shall be divided in the formation of a Senate district. The Senate districts shall be numbered in regular series, and the Senators chosen by the districts designated by odd numbers shall go out of office at the expiration of the first year, and the Senators chosen by the districts designated by even numbers shall go out of office at the expiration of the second year; and thereafter the Senators shall be chosen for the term of two years, except there shall be an entire new election of all the Senators at the election next succeeding each new apportionment provided for in this article.

§ 25. Senators and Representatives shall be qualified voters of the State, and shall have resided one year in the State, and six months immediately preceding the election in the district from which they are elected.

§ 26. Members of the Senate of the United States from this State shall be elected by the two Houses of the Legislature in joint Convention, at such times and in such manner as may be provided by law.

§ 27. No law shall embrace more than one subject, which shall be expressed in its title.

§ 28. Divorces shall not be granted by the Legislature.

§ 29. All members and officers of both branches of the Legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

§ 30. In all elections to be made by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

§ 31. The Legislature shall never authorize any lottery, or the sale of lottery tickets.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, who shall be chosen by the electors of the State.

§ 2. The returns of every election, for the officers named in the foregoing section, shall be made to the Secretary of State, and by him transmitted to the Speaker of the House of Representatives, who shall cause the same to be opened and canvassed before both Houses of the Legislature, and the result declared within three days after each House shall be organized.

§ 3. The term of office for the Governor and Lieutenant-Governor shall be two years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five years, and shall have been a *bona fide* resident of the State for one year next preceding his election. Both shall be citizens of the United States.

§ 4. The Governor shall communicate by message to each session of the Legislature such information touching the State and condition of the country as he may deem expedient. He shall be Commander-in-Chief of the military and naval forces, and may call out such forces to execute the laws, suppress insurrection, and repel invasion. He may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, after conviction, for offenses against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint a State Librarian and Notary Public, and such other officers as may be provided by law. He shall have power to appoint Commissioners to take the acknowledgment of deeds, or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the Legislature, under such rules and limitations as are in this Constitution prescribed. He may, on extraordinary occasions, convene both Houses of the Legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of Secretary of State, Treasurer, Auditor, Attorney-General, and such other State and District officers as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

§ 5. The official term of the Secretary of State, Treasurer, and Attorney-General shall be two years. The official term of the Auditor shall be three years, and each shall continue in office until his suc-

cessor shall have been elected and qualified. The Governor's salary, for the first term under this Constitution, shall be two thousand five hundred dollars per annum. The salary of the Secretary of State for the first term shall be fifteen hundred dollars per annum. The Auditor, Treasurer, and Attorney-General shall each, for the first term, receive a salary of one thousand dollars per annum. And the further duties and salaries of said Executive officers shall each thereafter be prescribed by law.

§ 6. The Lieutenant-Governor shall be, *ex officio*, President of the Senate; and in case a vacancy should occur, from any cause whatever, in the office of Governor, he shall be Governor during such vacancy. The compensation of Lieutenant-Governor shall be double the compensation of a State Senator. Before the close of each session of the Senate they shall elect a President *pro tempore*, who shall be Lieutenant-Governor in case a vacancy should occur in that office.

[§ 7. The term of each of the Executive officers named in this article shall commence on taking the oath of office, on or after the first day of May, 1858, and continue until the first Monday of January, 1860, except the Auditor, who shall continue in office until the first Monday of January, 1861, and until their successors shall have been duly elected and qualified; and the same above-mentioned time for qualification and entry upon the duties of their respective offices shall extend and apply to all other officers elected under the State Constitution, who have not already taken the oath of office and commenced the performance of their official duties.]

§ 8. Each officer created by this article shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States, and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

§ 9. Laws shall be passed at the first session of the Legislature after the State is admitted into the Union, to carry out the provisions of this article.

ARTICLE VI.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court, District Courts, Courts of Probate, Justices of the Peace, and such other courts, inferior to the Supreme Court, as the Legislature may, from time to time, establish by a two-thirds vote.

¹ This amendment was adopted April 15, 1858, in place of the following: "The term of each of the Executive officers named in this article shall commence upon taking the oath of office [after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860], except the Auditor, who shall continue in office until the first Monday in January, 1861, and until their successors shall have been duly elected and qualified."

§ 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices, but the number of Associate Justices may be increased to a number not exceeding four, by the Legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of government, and the Legislature may provide, by a two-thirds vote, that one term in each year shall be held in each or any judicial district. It shall be the duty of such court to appoint a Reporter of its decisions. There shall be chosen by the qualified electors of the State, one Clerk of the Supreme Court, who shall hold his office for the term of three years, and until his successor is duly elected and qualified, and the Judges of the Supreme Court, or a majority of them, shall have the power to fill any vacancy in the office of Clerk of the Supreme Court, until an election can be regularly had.

§ 3. The Judges of the Supreme Court shall be elected by the electors of the State at large, and their term of office shall be seven years, and until their successors are elected and qualified.

§ 4. The State shall be divided by the Legislature into six judicial districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each Judicial District, one Judge shall be elected by the electors thereof, who shall constitute said court, and whose term of office shall be seven years. Every District Judge shall, at the time of his election, be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office.

§ 5. The District Courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment, or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the Judge of one district may discharge the duties of the Judge of any other district not his own, when convenience or the public interest may require it.

§ 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation, at stated times, as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

§ 7. There shall be established in each organized county in the State, a Probate Court, which shall be a court of record, and be held at such times and places as may be prescribed by law. It shall be held by one Judge, who shall be elected by the voters of the county, for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk, where none has been elected, but the Legislature may authorize the election by the electors of any county, of one Clerk or Register of Probate for such county, whose powers, duties, term of office and compensation, shall be prescribed by law. A Probate Court shall have jurisdiction over the estates of deceased persons, and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

§ 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law: *Provided*, That no Justice of the Peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months imprisonment, or a fine of over one hundred dollars, nor in any case involving the title to real estate.

§ 9. All Judges other than those provided for in this Constitution shall be elected by the electors of the Judicial District, county, or city, for which they shall be created, nor for a longer term than seven years.

§ 10. In case the office of any Judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the Governor, until a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

§ 11. The Justices of the Supreme Court and the District Courts, shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office under this Constitution, except a judicial office, given by the Legislature or the people, during their continuance in office, shall be void.

§ 12. The Legislature may at any time change the number of Judicial Districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge.

§ 13. There shall be elected in each county where a District Court shall be held, one Clerk of said court, whose qualifications, duties and

compensation, shall be prescribed by law, and whose term of office shall be four years.

§ 14. Legal pleadings and proceedings in the courts of this State shall be under the direction of the Legislature. The style of all process shall be, "The State of Minnesota;" and all indictments shall conclude, "against the peace and dignity of the State of Minnesota."

§ 15. The Legislature may provide for the election of one person in each organized county in this State, to be called a Court Commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers; or the Legislature may, instead of such election, confer such powers and jurisdiction upon Judges of Probate in the State.

ARTICLE VII.

ELECTIVE FRANCHISE.

SECTION 1. Every male person of the age of twenty-one or upward, belonging to either of the following classes, who shall have resided in the United States one year, and in this State four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elected by the people.

*First.*¹ Citizens of the United States.

*Second.*¹ Persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third. Persons of mixed, white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any District Court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

§ 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights, and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

§ 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service

¹ The word "white" was stricken out in 1868, by a vote of 39,322 to 29,907. The question had been lost, in 1855, by a vote of 12,170 to 14,840; in 1865, by a vote of 12,138 to 14,650; and in 1887 by a vote of 27,461 to 28,759.

of the United States; nor while engaged upon the waters of this State, or of the United States; nor while a student of any seminary of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison.

§ 4. No soldier, seaman, or marine in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

§ 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

§ 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

§ 7. Every person who, by the provisions of this article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this Constitution, or the Constitution and laws of the United States.

ARTICLE VIII.

SCHOOL FUNDS, EDUCATION, AND SCIENCE.

SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature to establish a general and uniform system of public schools.

§ 2. The proceeds of such lands as are, or hereafter may be, granted by the United States for the use of schools within each township in this State, shall remain a perpetual school fund to the State, and not more than one-third of said lands may be sold in two years, one-third in five years, and one-third in ten years; but the lands of the greatest valuation shall be sold first: *Provided*, That no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands, or other property, granted or intrusted to this State, in each township, for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school lands, shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

§ 3. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the State.

§ 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises, and endowments heretofore granted or conferred, are hereby perpetuated unto the said University, and all lands which may be granted hereafter by Congress, or other donations, for said University purposes, shall vest in the institution referred to in this section.

ARTICLE IX.

FINANCES OF THE STATE, AND BANKS AND BANKING.

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the State. [¹ *Provided*, That the Legislature may, by general law or special act, authorize municipal corporations to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, without regard to cash valuation, and in such manner as the Legislature may prescribe.]

§ 2.² The Legislature shall provide for an annual tax, sufficient to defray the estimated [or ordinary] expenses of the State for each year; and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the Legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

[But no law levying a tax, or making other provision, for the payment of interest or principal of the bonds denominated "Minnesota State Railroad Bonds," shall take effect or be in force until such law shall have been submitted to a vote of the people of the State, and adopted by a majority of the electors of the State voting upon the same.]

§ 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying-grounds, public school-houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship,

¹ This clause was submitted to the people by an act of March 4, 1869, and adopted at the annual election following, by a vote of 26,639, to 2,560.

² The words and clause, in this section, included in brackets, were adopted, as amendments, Nov. 6, 1860.

institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.

§ 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never in the aggregate exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the Legislature, to be recorded by yeas and nays on the journals of each House respectively; and every such law shall levy a tax annually, sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed, or diminished, until the principal and interest of such debt shall have been wholly paid. The State shall never contract any debts for works of internal improvement; or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to specific purposes, and in such cases the State shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

§ 6. All debts authorized by the preceding section shall be contracted by loan on State bonds of amounts not less than five hundred dollars each, on interest, payable within ten years after the final passage of the law authorizing such debt; and such bonds shall not be sold by the State under par. A correct registry of all such bonds shall be kept by the Treasurer, in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable.

§ 7. The State shall never contract any public debt, unless in time of war, to repel invasion, or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this article.

§ 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

§ 9. No money shall ever be paid out of the treasury of this State, except in pursuance of an appropriation by law.

§ 10. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation. [Nor shall there be any further issue of bonds denominated "Minnesota Railroad Bonds," under what purports to be an amendment to section ten, of article nine of the Constitution, adopted on the fifteenth of April, eighteen hundred and fifty-eight, which is hereby expunged from the Constitution, saving, excepting and reserving to the State, nevertheless, all rights, remedies and forfeitures accruing under said amendment.]

¹ The clause of this section in brackets was adopted on the 6th of November, 1860, to supersede the amendment of the 15th of April, 1858. As there remains a certain vitality to this earlier amendment, so far as relates to acts done while it continued, it is here given entire:

"ARTICLE IX. § 10. The credit of this State shall never be given or loaned in aid of any individual, association, or corporation, except that for the purpose of expediting the construction of the lines of railroads, in aid of which the Congress of the United States has granted lands to the Territory of Minnesota, the Governor shall cause to be issued and delivered to each of the companies in which said grants are vested by the Legislative Assembly of Minnesota, the special bonds of the State, bearing an interest of seven per cent per annum, payable semi-annually in the city of New York, as a loan of public credit, to an amount not exceeding \$1,250,000; or an aggregate amount to all of said companies not exceeding \$5,000,000, in manner following, to wit:—

"Whenever either of the said companies shall produce to the Governor satisfactory evidence, verified by the affidavits of the Chief Engineer, Treasurer, and two Directors of said company, that any ten miles of the road of said company has been actually constructed and completed ready for placing the superstructure thereon, the Governor shall cause to be issued and delivered to such company, bonds to the amount of \$100,000; and whenever thereafter, and as often as either of said companies shall produce to the Governor like evidence of a further construction of ten miles of its road as aforesaid, then the Governor shall cause to be issued to such company further like bonds to the amount of \$100,000 for each and every ten miles of road thus constructed; and whenever such company shall furnish like evidence that any ten miles of its road is actually completed and cars running thereon, the Governor shall cause to be issued to such company like bonds to the amount of \$100,000; and whenever thereafter, and as often as either of said companies shall produce to the Governor like evidence that any further ten miles of said road is in operation as aforesaid, the Governor shall cause to be issued to such company further like bonds to the amount of \$100,000, until the full amount of the bonds hereby authorized shall be issued: *Provided*, That two-fifths and no more of all bonds issued to the Southern Minnesota Railroad Company shall be expended in the construction and equipment of the line of road from La Crescent to the point of junction with the Transit road, as provided by law; and further provided, that the Minneapolis and Cedar Valley Railroad Company shall commence the construction of their road at Faribault and Minneapolis, and shall grade an equal number of miles from each of said places.

"The said bonds thus issued shall be denominated 'Minnesota State Railroad Bonds,' and the faith and credit of this State are hereby pledged for the payment of the interest and the redemption of the principal thereof. They shall be signed by the Governor, countersigned and registered by the Treasurer, and sealed with the seal of the State, of denominations not exceeding \$1,000, payable to the order of the company to whom issued, transferable by the indorsement of the President of the company, and redeemable at any time after ten and before the expiration of twenty-five years from the date thereof. Within thirty days after the Governor shall proclaim that the people have voted for a loan of State credit to railroads, any of said companies proposing to avail themselves of the loan herein provided for, and to accept the conditions of the same, shall notify the Governor thereof and shall within sixty days commence the construction of their roads, and shall within two years thereafter construct, ready for the superstructure at least fifty miles of their road. Each company shall make provision for the punctual payment and redemption of all bonds issued and delivered as aforesaid to said company, and for the punctual payment of the interest which shall accrue thereon in such manner as to exonerate the treasury of the State from any advances of money for that purpose; and as security therefor, the Governor shall demand and receive from each of said companies, before any of said bonds are issued, an instrument pledging the net profits of its road for the payment of said interest, and a conveyance to the State of the first two hundred and forty sections of land, free from prior incumbrances, which such company is or may be authorized to sell in trust for the better security of the treasury of the State from loss on said bonds, which said deed of trust shall authorize the Governor and Secretary of State to make conveyances of title to all or any of such lands to purchasers agreeing with the respective railroad companies therefor: *Provided*, That before releasing the interest of the State to such lands, such sale shall be approved by the Governor; but the proceeds of all such sales shall be applied to the payment of interest accruing upon the bonds in case of default of the

§ 11. There shall be published by the Treasurer, in at least one newspaper printed at the seat of government, during the first week of January in each year, and in the next volume of the acts of the Legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purposes, and to whom paid, and by what law authorized, and also of all moneys received, and by what authority, and from whom.

§ 12. Suitable laws shall be passed by the Legislature for the safe keeping, transfer, and disbursement of the State and school funds, and all officers and other persons charged with the same shall be required to give ample security for all moneys and funds of any kind, to keep an accurate entry of each sum received, and of each payment and transfer; and if any of said officers or other persons shall convert to his own use in any form, or shall loan with or without interest, contrary to law, or shall deposit in banks, or exchange for other funds, any portion of the funds of the State, every such act shall be adjudged to be an embezzlement of so much of the State funds as shall be thus taken, and shall be declared a felony; and any failure to pay over or produce the State or school funds intrusted to such persons, on demand, shall be held and taken to be *prima facie* evidence of such embezzlement.

§ 13. The Legislature may, by a two-thirds vote, pass a general banking law, with the following restrictions and requirements, viz.:

First. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association, or corporation, issuing bank-notes of any description.

payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof when due; and as further security, an amount of first mortgage bonds, on the roads, lands and franchises of the respective companies, corresponding to the State bonds issued, shall be transferred to the Treasurer of the State at the time of the issue of State bonds, and in case either of said companies shall make default in payment of either the interest or principal of the bonds issued to said companies by the Governor, no more State bonds shall thereafter be issued to said company; and the Governor shall proceed, in such manner as may be prescribed by law, to sell the bonds of the defaulting company or companies, or the lands held in trust as above, or may require a foreclosure of the mortgage executed to secure the same: *Provided*, That, if any company so in default, before the day of sale, shall pay all interest and principal then due, and all expenses incurred by the State, no sale shall take place, and the right of such company shall not be impaired to a further loan of State credit: *Provided*, If any of said companies shall at any time offer to pay the principal, together with the interest that may then be due upon any of the Minnesota State Railroad Bonds, which may have been issued under the provisions of this section, then the Treasurer of State shall receive the same, and the liabilities of said company or companies, in respect to said bonds, shall cease upon such payment into the State Treasury, of principal together with the interest, as aforesaid: *Provided, further*, That in consideration of the loan of State credit herein provided, that the company or companies which may accept the bonds of the State in the manner hereinafter specified shall, as a condition thereof, each complete not less than fifty miles of its road on or before the expiration of the year 1881, and complete four-fifths of the entire length of its road before the year 1886, and any failure on the part of any such company to complete the number of miles of its road or roads, in the manner and within the several times herein prescribed, shall forfeit to the State all the rights, title and interest of any kind whatsoever in and to any lands, together with the franchises connected with the same not pertaining or applicable to the portion of the road by them constructed, and a fee-simple to which has not accrued to either of said companies, by reason of such construction, which was granted to the company or companies, thus failing to comply with the provisions hereof, by act of the Legislature of the Territory of Minnesota, vesting said land in said companies respectively.¹ Adopted by a vote of 25,023 for to 733 against.

Second. The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie; and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent or more on the dollar, the bank or banks owning said stock shall be required to make up said deficiency by additional stocks.

Third. The stockholders in any corporation and joint association for banking purposes, issuing bank-notes, shall be individually liable in an amount equal to double the amount of stock owned by them for all the debts of such corporation or association; and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth. Any general banking law which may be passed in accordance with this article shall provide for recording the names of all stockholders in such corporations; the amount of stock held by each, the time of transfer, and to whom transferred.

ARTICLE X.

OF CORPORATIONS HAVING NO BANKING PRIVILEGES.

SECTION 1. The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges; and all corporations shall have the right to sue, and shall be liable to be sued, in all courts, in like manner as natural persons.

§ 2. No corporation shall be formed under special acts, except for municipal purposes.

§ 3. Each stockholder in any corporation shall be liable to the amount of the stock held or owned by him.

§ 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance to the provisions of this section, shall be bound to carry the mineral, agricultural and other productions or manufactures on equal and reasonable terms.

ARTICLE XI.

COUNTIES AND TOWNSHIPS.

SECTION 1. The Legislature may, from time to time, establish and organize new counties; but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county lines in counties already organized, or for removing county seats, shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred square miles.

§ 2. The Legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of the county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

§ 3. Laws may be passed providing for the organization, for municipal and other town purposes, of any congressional or fractional townships in the several counties in the State: *Provided*, That when a township is divided by county lines, or does not contain one hundred inhabitants, it may be attached to one or more adjacent townships, or parts of townships, for the purposes aforesaid.

§ 4. Provision shall be made by law for the election of such county or township officers as may be necessary.

§ 5. Any county and township organization shall have such powers of local taxation as may be prescribed by law.

§ 6. No money shall be drawn from any county or township treasury except by authority of law.

[§ 7.¹ The county of Manomin is hereby abolished, and the territory, heretofore comprising the same, shall constitute and be a part of the county of Anoka.]

ARTICLE XII.

OF THE MILITIA.

SECTION 1. It shall be the duty of the Legislature to pass such laws for the organization, discipline, and service of the militia of the State as may be deemed necessary.

¹ This section was submitted by an act of March 5, 1869, and was approved at the fall election of that year, by a vote of 13,392 to 1,671.

ARTICLE XIII.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney-General, and the Judges of the Supreme and District Courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

§ 2. The Legislature of this State may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

§ 3. No officer shall exercise the duties of his office after he shall have been impeached, and before his acquittal.

§ 4. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court.

§ 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever a majority of both Houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection; and if it shall appear, in a manner to be provided by law, that a majority of voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

§ 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise this Constitution, they shall recommend to the electors to vote, at the next election, for members of the Legislature, for or against a Convention; and if a majority of all the electors voting at said election, shall have voted for a Convention, the Legislature shall, at their

next session, provide by law for calling the same. The Convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XV.

MISCELLANEOUS SUBJECTS.

SECTION 1. The seat of government of the State shall be at the city of St. Paul; but the Legislature, at their first, or any future session, may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government to the State; and in the event of the seat of government being removed from the city of St. Paul to any other place in the State, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature, and the arts, to be organized by the Legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

§ 2. Persons residing on Indian lands within the State shall enjoy all the rights and privileges of citizens as though they lived in any other portion of the State, and shall be subject to taxation.

§ 3. The Legislature shall provide for a uniform oath or affirmation to be administered at elections; and no person shall be compelled to take any other or different form of oath to entitle him to vote.

§ 4. There shall be a seal of the State, which shall be kept by the Secretary of State, and be used by him officially, and shall be called by him the great seal of the State of Minnesota, and shall be attached to all official acts of the Governor (his signature to acts and resolves of the Legislature excepted) requiring authentication. The Legislature shall provide for an appropriate device and motto for said seal.

§ 5. The territorial prison, as located under existing laws, shall, after the adoption of this Constitution, be and remain one of the State prisons of the State of Minnesota.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Minnesota previous to its admission into the union of the United States shall be as valid as if issued in the name of the State.

§ 2. All laws now in force in the Territory of Minnesota, not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

§ 3. All fines, penalties, or forfeitures accruing to the Territory of Minnesota shall inure to the State.

§ 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a permanent State government, shall remain valid, and shall pass to and may be prosecuted in the name of, the State; and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, shall pass to, the Governor or State authority and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate of property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts of whatsoever description, of the Territory of Minnesota, shall inure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the State of Minnesota, as the same could have been by the Territory of Minnesota. All criminal prosecutions and penal actions which may have arisen, or which may arise, before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Minnesota before the change from a territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Minnesota, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity, which may be pending in any of the courts of the Territory of Minnesota at the time of the change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

§ 5. All territorial officers, civil and military, now holding their offices under the authority of the United States or of the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

§ 6. The first session of the Legislature of the State of Minnesota shall commence on the first Wednesday of December next, and shall be held at the Capitol in the city of St. Paul.

§ 7. The laws regulating the election and qualification of all district, county, and precinct officers, shall continue and be in force until the Legislature shall otherwise provide by law.

§ 8. The President of the Convention shall, immediately after the adjournment thereof, cause this Constitution to be deposited in the office of the Governor of the Territory; and if after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the State, then the Governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against the said Constitution, to the President of the United States, to be by him laid before the Congress of the United States.

§ 9. For the purposes of the first election, the State shall constitute one district, and shall elect three¹ members to the House of Representatives of the United States.

§ 10. For the purposes of the first election for members of the State Senate and the House of Representatives, the State shall be divided into Senatorial and Representative Districts, as follows, viz.: 1st District, Washington county; 2d District, Ramsey county; 3d District, Dakota county; 4th District, so much of Hennepin county as lies west of the Mississippi; 5th District, Rice county; 6th District, Goodhue county; 7th District, Scott county; 8th District, Olmstead county; 9th District, Fillmore county; 10th District, Houston county; 11th District, Winona county; 12th District, Wabashaw county; 13th District, Mower and Dodge counties; 14th District, Freeborn and Faribault counties; 15th District, Steele and Waseca counties; 16th District, Blue Earth and Le Sueur counties; 17th District, Nicollet and Brown counties; 18th District, Sibley, Renville, and McLeod counties; 19th District, Carver and Wright counties; 20th District, Benton, Stearns, and Meeker counties; 21st District, Morrison, Crow Wing and Mille Lac counties; 22d District, Cass, Pembina, and Todd counties; 23d District, so much of Hennepin county as lies east of the Mississippi; 24th District, Sherburne, Anoka, and Manomin counties; 25th District, Chisago, Pine and Isanti counties; 26th District, Buchanan, Carlton, St. Louis, Lake, and Itasca counties.

§ 11. The counties of Brown, Stearns, Todd, Cass, Pembina, and Renville, as applied in the preceding section, shall not be deemed to include any territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the territory of either at the last session of the Legislature.

§ 12. The Senators and Representatives, at the first election, shall be apportioned among the several Senatorial and Representative districts, as follows, to wit:

¹ But two Representatives were allowed by Congress.

1st District,	2 Senators,	3 Representatives.	15th District,	1 Senator,	4 Representatives.
2d "	3 "	6 "	16th "	1 "	3 "
3d "	2 "	5 "	17th "	1 "	3 "
4th "	2 "	4 "	18th "	1 "	3 "
5th "	2 "	3 "	19th "	1 "	3 "
6th "	1 "	4 "	20th "	1 "	3 "
7th "	1 "	3 "	21st "	1 "	1 "
8th "	2 "	4 "	22d "	1 "	1 "
9th "	2 "	6 "	23d "	1 "	2 "
10th "	2 "	3 "	24th "	1 "	1 "
11th "	2 "	4 "	25th "	1 "	1 "
12th "	1 "	3 "	26th "	1 "	1 "
13th "	2 "	3 "			
14th "	1 "	3 "	Totals	37	80

§ 13. The returns from the 22d district shall be made to, and canvassed by, the judges of election at the precinct of Otter Tail City.

§ 14. Until the Legislature shall otherwise provide, the State shall be divided into judicial districts, as follows, viz.:

The counties of Washington, Chisago, Manomin, Anoka, Isanti, Pine, Buchanan, Carlton, St. Louis and Lake, shall constitute the First Judicial District.

The county of Ramsey shall constitute the Second Judicial District.

The counties of Houston, Winona, Fillmore, Olmsted and Wabashaw, shall constitute the Third Judicial District.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lac, Itasca, Pembina, Todd and Cass, shall constitute the Fourth Judicial District.

The counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower and Freeborn, shall constitute the Fifth Judicial District.

The counties of Le Sueur, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown and other counties in the State, not included within the other districts, shall constitute the Sixth Judicial Districts.

§ 15. Each of the foregoing enumerated Judicial Districts may, at the first election, elect one Prosecuting Attorney for the district.

§ 16. Upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant-Governor, Supreme and District Judges, members of the Legislature, and all other officers designated in this Constitution, and also for the submission of this Constitution to the people, for their adoption or rejection.

§ 17. Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this Constitution at such election, and also for or against the adoption of this Constitution.

§ 18. In voting for or against the adoption of this Constitution, the words "for Constitution," or "against Constitution," may be written

or printed on the ticket of each voter; but no voter shall vote for or against this Constitution on a separate ballot from that cast by him for officers to be elected at said election under this Constitution; and if, upon the canvass of the vote so polled, it shall appear that there was a greater number of votes polled for than against said Constitution, then this Constitution shall be deemed to be adopted as the Constitution of the State of Minnesota; and all the provisions and obligations of this Constitution, and of the schedule hereunto attached, shall thereafter be valid to all intents and purposes as the Constitution of said State.

§ 19. At said election the polls shall be opened, the election held, returns made, and certificates issued in all respects as provided by law for opening, closing and conducting elections and making returns of the same, except as hereinbefore specified, and excepting, also, that polls may be opened and elections held at any point or points, in any of the counties where precincts may be established as provided by law, ten days previous to the day of election, and not less than ten miles from the place of voting in any established precinct.

§ 20. It shall be the duty of the judges and clerks of election, in addition to the returns required by law for each precinct, to forward to the Secretary of the Territory by mail, immediately after the close of the election, a certified copy of the poll-book, containing the name of each person who has voted in the precinct, and the number of votes polled for and against the adoption of this Constitution.

§ 21. The returns of said election for and against this Constitution, and for all State officers and members of the House of Representatives of the United States, shall be made, and certificates issued, in the manner now prescribed by law for returning votes given for delegate to Congress, and the returns for all district officers, judicial, legislative or otherwise, shall be made to the Register of Deeds of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the Governor of the Territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for Delegate to Congress.

§ 22. If, upon canvassing the votes for and against the adoption of this Constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any State or district officer provided for in this Constitution, and no State organization shall have validity within the limits of the Territory until otherwise provided for, and until a Con-

stitution for a State government shall have been adopted by the people.

[REPUBLICAN CONVENTION.]

ST. A. D. BALCOMBE,
President of Convention
(Delegate from Winona county)

Carver County.

T. D. Smith,
Henry Eschlie.

Chisago County.

W. H. C. Folsom,
Charles F. Lowe,
P. A. Cederstam,
L. K. Stannard.

Dakota County.

Thomas Foster.

Dodge County.

Frank Mantor.

Fillmore County.

N. P. Colburn,
H. A. Billings,
A. H. Butler,
Charles Hanson,
John Cleghorn,
H. W. Holley.

Freeborn County.

George Watson.

Goodhue County.

Aaron G. Hudson,
Charles McClure,
Joseph Peckham.

Hennepin County.

D. M. Hall,
William F. Russell,
Wentworth Hayden,
E. N. Bates,
John H. Murphy,
R. L. Bartholomew,
Charles B. Sheldon,
David Morgan,
David A. Secombe,
Cyrus Aldrich,
Albert W. Coombs,
Samuel W. Putnam,
L. C. Walker,
Phillip Winell.

Houston County.

James A. McCann,

[DEMOCRATIC CONVENTION.]

HENRY H. SIBLEY,
President of the Convention
(Delegate from Dakota county).

Benton County.

David Gilman.

Blue Earth County.

William B. McMahon.

Brown County.

Francis Baasen.

Dakota County.

Daniel J. Burns,
Josiah Burwell,
Henry G. Bailly,
Andrew Keegan.

Freeborn County.

Edwin C. Stacey.

Hennepin County.

Alfred E. Ames,
Charles L. Chase,
William M. Lashelle,
B. B. Meeker,
Calvin A. Tuttle.

Houston County.

James C. Day,
O. W. Streeter.

Le Sueur County.

T. H. Swan.

Morrison County.

William Sturgis.

Mower County.

Thomas H. Armstrong.

Nicollet County.

Charles E. Flandreau.

Pembina County.

Xavier Cantell,
James McFetridge,
J. Jerome,

[REPUBLICAN CONVENTION.]

John A. Anderson,
Charles A. Coe,
C. W. Thompson.

McLeod County.

B. E. Messer.

Morrison County.

F. Ayer.

Mower County.

Robert Lyle,
Boyd Phelps,
Alanson B. Vaughn.

Nicollet County.

Edwin Page Davis.

Olmstead County.

N. B. Robbins, Jr.,
Simeon Harding,
D. L. King,
W. H. Miller.

Rice County.

Thomas Bolles,
John W. North,
Oscar F. Perkins.

Scott County.

D. D. Dickerson,
Thomas T. Galbraith.

Steele County.

Amos Cogswell.

Wabashaw County.

Benjamin C. Baldwin,
G. A. Kemp.

Waseca County.

Lewis McCune.

Winona County.

Thomas Wilson,
W. T. Daley,
Charles Gerrish.

Attest: L. A. BABCOCK,
Secretary of Convention.

[DEMOCRATIC CONVENTION.]

Joseph Rolette,
Louis Vasseur,
J. P. Wilson.

Ramsey County.

George L. Becker,
Moses Sherburne,
Lafayette Emmett,
William P. Murray,
Willis A. Gorman,
John S. Prince,
Patrick Nash,
William B. McGrorty,
Paul Faber,
Michael E. Ames.

St. Louis County.

R. W. Barrett,
W. W. Kingsbury.

Scott County.

William A. Davis,
Robert Kennedy,
Frank Warner.

Sibley County.

Joseph R. Brown.

Stearns County.

J. C. Shepley,
John W. Ten Voorde,
H. C. Wait.

Washington County.

Charles J. Butler,
Gold T. Curtis,
Newington Gilbert,
William Holcombe,
James S. Norris,
R. H. Sanderson,
Henry N. Setzer.

Attest: J. J. NOAH,
Secretary of Convention.



MISSISSIPPI.

The State of Mississippi is included within the region described in the Carolina Charter of June 30, 1677, which was surrendered by its proprietors to the Crown in 1729 and 1744. The Georgia Charter of 1732, granted all the lands westward, between parallels of latitude passing through the head-waters of the Altamaha and the Savannah rivers, but, in 1752, this Charter was also surrendered to the Crown.

In following the changes of title and form of government of this State, we will first notice that portion north of the line of 31° N. latitude. By a Convention between Commissioners representing South Carolina and Georgia, held at Beaufort, April 28, 1787, the former relinquished to the latter, her claims west of her present boundaries, and, on the 9th of August of that year, she ceded to the United States, for the common benefit of the Union, whatever right she had to the western lands.

The "Territory of Mississippi" was authorized to be formed by an act approved April 7, 1798, and the President was empowered to establish a government therein, as soon as he should deem it expedient. The form of government, and the rights and privileges of the inhabitants were to be, in all respects, like those in the Territory northwest of the Ohio, excepting the article in the Ordinance of 1787, restricting slavery. The boundary of the new Territory was to extend to the Chattahoochee river on the east, and the Mississippi river on the west, between 31° N. latitude and a parallel passing through the mouth of the Yazoo river. Authority was given to divide the Territory into two Districts, and to establish a separate Territorial government in each; but nothing was to be done to impair the rights of the State of Georgia, or of any person or persons, either as to the jurisdiction or soil of the Territory; but these rights were to be maintained firm and inviolable, as if the act had not been passed.

The tract of country included within the boundaries above described had been attached to West Florida, March 23, 1764, while it was a British Province; but, by Provisional Articles of a Treaty between Great Britain and the United States, signed November 30, 1782, the southern boundary of the United States was fixed at 31°, and, in the cession of Florida to Spain, in 1783, that Province was to include only its ancient boundary (which was this line), on the north. But, after this transfer, difficulties arose from the Spaniards claiming jurisdiction beyond this limit, which continued to disturb the frontiers for some years. By a treaty with Spain, signed in October, 1795, the line of 31° was expressly agreed upon as a boundary, and that government agreed to withdraw any troops she might have north of that line, within six months. They continued however, to hold the post at Natchez, after the appointed time, as was believed under French influence, Spain being then in alliance with France, and the latter in a hostile attitude toward the United States.

There can scarcely be a doubt but that the Spanish authorities of Louisiana entertained the hope, that by controlling the navigation of the Mississippi, they could make it for the interest of the inhabitants of the Western Territories of the United States, upon the upper waters of that river, to separate from the Union and form an alliance with Spain. The retention of these posts, has with strong probability been attributed to this hope, and possession was held until the impossibility of its realization became certain. The garrison of Fort

Nogales was withdrawn March 23d, 1798, and on the 30th of that month, Fort Panmure, at Natchez, was evacuated, and possession was at once taken by the United States.

There were, at this time, at and around Natchez, some five or six thousand inhabitants, mostly of English origin, who had settled just before the Revolutionary war, or who had come by Spanish invitation since.

By the act of Congress, April 7, 1798, the President was authorized to appoint three Commissioners, to confer with such Commissioners as might be appointed by Georgia, concerning the cession by that State of all rights and claims west of the Chattahoochie river, and south of the tract ceded by South Carolina. James Madison, Albert Gallatin and Levi Lincoln, were appointed to this commission on the part of the United States, and James Jackson, Abraham Baldwin and John Milledge, on the part of Georgia.

On the 24th of April, 1802, an agreement was concluded between these Commissioners, by which the State agreed to cede her claims of jurisdiction, soil, and right of pre-emption of Indian titles beyond the present western boundaries of that State, to the United States, upon the payment of \$1,250,000 out of the first nett proceeds of the sale of these lands, and with a confirmation of several previous grants. The State of Georgia consented to the formation of a State within this tract, whenever the population should amount to 60,000, or sooner if Congress should deem it expedient. This agreement was confirmed by the Legislature of Georgia, June 16, 1802.

By an act approved March 27, 1804, the tract between Mississippi Territory (as first bounded) and the State of Tennessee, was annexed to the former.

The part of Mississippi south of 31° north latitude having belonged alternately to Spain, Great Britain, Spain and France, as noticed under our historical summary relating to Florida and Louisiana, became the property of the United States in 1803, and in 1804 was included in Orleans Territory. By an act of Congress approved May 16, 1812, this portion of Orleans Territory between the Pearl and Perdido rivers was annexed to Mississippi Territory.

The Territory was organized under an act approved May 10, 1800. Until the number of free male inhabitants, of full age, should amount to 5,000, the General Assembly was to be limited to nine members. The first election was to be held on the fourth Monday of July, and the first session of the Legislature was to be convened at Natchez, on the fourth Monday in September of that year.

By an act of January 9, 1808, the right of suffrage was defined to include every free white male person within the Territory, above the age of twenty-one, having been a citizen of the United States, and resident in the said Territory one year, and who had a legal or equitable title to land, by virtue of any act of Congress, or who had purchased fifty acres, or held a town lot, worth \$100, and the Territory was entitled to one Delegate in Congress.

On the 2d of March, 1810, an additional Judge was to be appointed in Madison county, then comprising the northern part of the present State of Alabama, and another Delegate in Congress was authorized to be elected in that county.

A motion was made in the House of Representatives, in Congress, December 28, 1810, to inquire into the expediency of admitting Mississippi into the Union, upon which a report was made January 9, 1811, but no final action was taken at that time, toward allowing the formation of a State government.¹ A petition was presented November 13, 1811, and reported on by a committee December 17, 1811.² A bill was passed by the House, but reported upon adversely in the Senate, April 17, 1812.³ A joint resolution was, however, passed by Congress

¹ Am. State Papers, Miscellaneous, ii, 129.

² Ib. 163.

³ Ib. 182.

June 17, 1812, requesting the State of Georgia to assent to the formation of two States out of Mississippi Territory, if, in the opinion of Congress, such a division of the Territory should appear expedient.

Congress was again memorialized in 1815, and a committee, to whom the subject was referred, reported on the 29th of December of that year, recommending the admission of the whole Territory as one State. The last general census, in 1810, had returned a population of 40,352 of all classes. As no certain data had since been obtained, they did not solicit admission by right of numbers, but as an act of courtesy. The consent of Georgia had been asked and obtained for the formation of *a State*, and doubts were expressed as to whether this language could be construed to mean "one or more States." Although the people of the Territory had no agency in the agreement, they were the object of it, and as such became a third party to it, and were vested by it of a right which is explicitly defined. To change this agreement would require the consent of the three parties concerned, and, therefore, the committee regarded it improper to divide the Territory without the consent of Georgia and of the United States, as well as of the inhabitants of the Territory in question.

A census of the Territory, taken in 1816, gave a total of 45,085 free whites, 366 free colored, and 30,061 slaves. In a memorial for permission to organize a State, dated December, 23, 1816, and presented by the Legislative Council of the Territory, they did not claim admission upon the ground of numbers, but upon a liberal policy on the part of the United States, and from the fact that the House of Representatives had already passed bills in their favor at three different times, when their population was much less than at the time of this memorial.

The settlements were at this period chiefly in the northern part, on the Tennessee river, on the Mississippi around Natchez, and in the vicinity of Mobile, with the widely intervening spaces wholly uninhabited except by Indians, whose titles had not as yet, for the most part, been extinguished. Between the settlements on the Mississippi and the other two, it was claimed that there never could be any commercial intercourse whatever, while from the Tennessee to the Gulf, the intervening country would probably be united by common interests, and improved by means of the navigable rivers of that region. They therefore asked for a division of the territory, as best tending to allay jealousies between sections having distinct local interests and opposite views, least these feelings should prevail over principles of justice, and local policy over the general good. The line of division between the two States recommended as subsequently adopted, was the one which now forms the common boundary between Alabama and Mississippi. (*Am. State Papers, Miscel. II, 407.*)

By an enabling act approved March 1, 1817, the inhabitants of the western part of Mississippi Territory were authorized to form a State government, and to assume such name as they might deem proper. A convention was to be held at Washington, in the county of Adams, in July of that year, and after determining whether or not it be expedient to form a Constitution and State government, they were (if so determined) authorized to form a State government. The Convention was to declare by ordinance, irrevocable without the consent of Congress, that it forever disclaimed all right to waste and unappropriated lands, that no taxes should be laid upon the property of the United States, nor for a limited time upon lands sold by the United States, and that the Mississippi, and the navigable waters leading into the same, should remain free as a common highway to citizens of the United States.

The Convention met July 7th, and on the 15th of August completed its labors by agreeing upon a Constitution, which was approved by the people at an elec-

tion held for that purpose. The State was admitted into the Union by a joint resolution of Congress, December 10, 1817. An act to provide for the due execution of the laws of the United States, within the new State, was passed April 3, 1818. The remainder of Mississippi Territory was, on the 3d of March, formed into "Alabama Territory."

In 1831, the people decided, at an election, for holding another Convention; and, under a law passed on the 16th of December, 1831, Delegates were elected, who met at the State Capital on the 10th of September, 1832. On the 26th of October, they agreed upon a Constitution, which was duly ratified by the people. The leading changes introduced at this time were as follows: The sessions of the General Assembly, which had been annual, were changed to biennial; the term of Representatives from one to two years, and that of Senators from three to four years. The Senators, instead of being elected in three classes, were now chosen in two, one-half biennially. Representation in the two Houses was equalized upon a census of free whites, taken once in from four to five years, instead of from three to five years. The Governor's term remained fixed at two years. The Judiciary powers of the State were first vested in a Supreme Court, and such superior and inferior courts as might be established by law. The Superior Court consisted of from four to eight Judges chosen by joint vote of the two Houses, during good behavior. District and other local courts, and a Court of Chancery, were authorized.

Under the revision of 1832, the Judiciary power was vested in a High Court of Errors and Appeals, and such other courts of law and equity as might be provided by law. The High Court of Errors and Appeals consisted of three Judges, elected by the people, in classes, for a term of six years. Circuit courts were established, the Judges of which were also elected. This is one of the earliest examples, if not the first among American Constitutions, in which the Judiciary was made elective. The principle has now become so generally established, that exceptions are found only in Constitutions of long standing, and every year their number is becoming less.

With some amendments, the Constitution of 1832 remained until the State seceded from the Union and joined the Southern Confederacy.

Near the close of November, 1860, the Legislature met, appointed an election for a Convention, and adjourned. The election was held on the 20th of December, and the Convention met on the 7th of January, 1861. On the 9th, an ordinance of secession passed, by a vote of 84 to 15; and on the 12th, her Representatives in the Congress of the United States withdrew. On the 30th of March, the Confederate Constitution was ratified by a vote of 78 to 7. Changes were made in the State Constitution by the Convention, to adapt it to the change of allegiance.

Restrictions upon commercial intercourse with this State were removed by President Johnson on the 29th of April, 1865, and on the 13th of June, he appointed William L. Sharkey Provisional Governor.

On the first of July, 1865, Governor Sharkey issued a proclamation appointing local officers, and fixing an election for a Convention on the 7th of August, at which all persons were allowed to vote who were qualified under the laws as they stood on the 9th of January, 1861, and who had taken the amnesty oath prescribed by the proclamation of the 29th of May, 1865.

This Convention met on the 14th of August, 1865, and after passing ordinances repealing the ordinance of secession, abolishing slavery, and making sundry changes in the Constitution, intended to meet the wants of the occasion, adjourned on the 26th. At the first session of the Legislature held under this Constitution, a law was passed appropriating a fifth part of the revenue of the

State, as a relief fund for disabled Confederate and State soldiers. The anti-slavery amendment to the Federal Constitution was rejected, and other measures were adopted, indicating a strong sympathy with the former state of affairs.

Under the reconstruction acts of Congress, Mississippi became a part of the Fourth Military District. At an election held November 5, 1867, upon the question of holding a Convention, the whole vote was 56,309. The number of whites registered was 46,636, and of colored 60,167. Of the vote given, nearly all were by colored men, and nearly all in favor of a Convention. On the 5th of December, 1867, General Ord, in command of the District, declared that a majority of the registered voters had voted on the Convention question, and called the Convention, to meet at Jackson, January 7, 1868. The Constitution they prepared was agreed upon May 15, 1868.

The vote on the adoption of the Constitution, at an election held June 22, 1868, was 56,231 *for*, and 63,860 *against*, and for the Republican and Democratic candidates for Governor, nearly the same number, — the latter being in the majority.

On the 10th of April, 1869, an act was approved, authorizing the President to submit the Constitution to a vote, at such time as he might deem best for the public interests, either as a whole, or separate provisions thereof; and at the same time an election of State officers and Members of Congress was to be held. Before admission to representation, it was required that the State Legislature should ratify the XVth Article of Amendment to the Constitution of the United States; but these proceedings were not to be deemed final, or to operate as a complete restoration, until they were approved by Congress.

On the 13th of July, President Grant issued a proclamation appointing an election, to be held on the 30th of November following, and submitting to a separate vote, the clauses disfranchising participants in the rebellion, prescribing a test oath for officials, and prohibiting the pledging of the State credit to corporations. The election was held November 30 — December 1, and the Constitution was adopted.

An act was approved February 23, 1870, by which the State was admitted to representation, with a proviso that members of its State Legislature should take the following oath or affirmation, to wit: "I, —, do solemnly swear (or affirm), that I have never taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof: so help me God;" (or under the pains and penalties of perjury, as the case may be); or such person was, in like manner, to take and subscribe the following oath or affirmation: "I, —, do solemnly swear (or affirm), that I have, by an act of Congress of the United States, been relieved from the disabilities imposed upon me by the XIVth Amendment to the Constitution of the United States."

This act of Congress contained the following as essential conditions of readmission:

"1st. That the Constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote, who are entitled to vote by the Constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said Constitution, prospective in its effects, may be made in regard to the time and place of residence of voters.

"2d. That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color or previous condition of servitude, of the right to hold office under the Constitution and laws of said State, or upon any such ground to require of him any other qualification for office than such as is required of all other citizens.

"3d. That the Constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the Constitution of said State."

CONSTITUTION OF MISSISSIPPI, 1868.

SUMMARY.

ARTICLES.

- I. Bill of Rights.
- II. Boundaries of the State.
- III. Distribution of Powers.
- IV. Legislative Department.
- V. Executive.
- VI. Judiciary.
- VII. Franchise.
- VIII. School Funds—Education and Science.
- IX. Militia.
- X. Internal Improvements.
- XI. Apportionment.
- XII. General Provisions.
- XIII. Ordinance and Schedule.

ARTICLE I. — *Bill of Rights.*

SECTIONS.

1. Persons who are citizens of the State.
2. No person to be deprived of life, liberty or property except by law.
3. Writ of *habeas corpus*.
4. Freedom of speech and of the press—trial of libels.
5. Second trial for same offense forbidden.
6. Right of assembling and of petitioning.
7. Rights of persons accused of crime—witnesses—speedy trial by jury—evidence against one's self.
8. Cruel punishments—excessive fines and bail—right of bail defined.
9. *Ex post facto* laws—obligation of contracts.
10. Private property not taken for public use without due compensation.
11. No imprisonment for debt.
12. Right of trial by jury inviolate.
13. Property qualification not required of jurors.
14. Exemption from illegal seizures and searches.
15. Right of bearing arms.
16. Rights of property of married women.
17. Property qualifications not required for office.
18. Property or educational qualifications not required of voters.
19. Slavery prohibited.
20. Right of secession denied—paramount allegiance due to government of United States.
21. Public money not to be applied to charitable or public institutions, making distinction of classes—proviso concerning schools.
22. No distinction to be made in reference to possession or descent of property.
23. Religious tests not required—religious freedom—not to justify acts of licentiousness.
24. Right of all citizens to travel upon public conveyances.
25. Military subordinate to civil power.
26. Treason defined—how proved.
27. Dueling—disqualifies from holding office or voting.
28. Courts open—right of justice.
29. Terms of office to be fixed at some specified period.
30. Right of defense before tribunals by self or counsel.

SECTIONS.

31. Prosecution by indictment—minor offenses may be tried by Justices of the Peace.
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ARTICLE II. — *Boundaries of the State.*

To remain as fixed by law.

ARTICLE III. — *Distribution of Powers.*

1. Powers divided into three distinct departments.
2. No person being of one, to exercise powers of another.

ARTICLE IV. — *Legislative Department.*

1. Legislature composed of Senate and House of Representatives.
2. House—number—term.
3. Qualification of Representatives.
4. Senate—term.
5. Qualification of Senators.
6. Political year—meeting of Legislature.
7. Elections by ballot—time—privilege of electors.
8. Elections to Legislature to be as provided by law.
9. Vacancies in either House.
10. Each House to judge of qualification of its own members.
11. President of Senate—to act in absence of Lieutenant-Governor.
12. Quorum—power over absent members.
13. Adjournments limited.
14. Each House to determine its own rules—may expel members—journals—years and days.
15. To sit with open doors—power over persons not members.
16. Non-accounting holders of public moneys ineligible to Legislature or other offices.
17. Crimes disqualify from office and right of voting.
18. Bribery at elections to disqualify from office.
19. Privilege of members from arrest.
20. Pay of members—not to be changed in term.
21. Suits against the State.
22. Divorce by Legislature forbidden—to be in power of courts.
23. Origin of bills—passage—to be signed in open session.
24. Veto power of Governor—passage over veto—bills to be returned within five days.
25. Concurrent orders and resolutions to be signed by Governor—or passed over his veto.
26. No payment from treasury but by law.
27. Impeachment—trial—oath.
28. Officers liable to impeachment.
29. Trial of Governor—vote for conviction.
30. Limit of judgment in impeachment—persons impeached may be further tried by law.
31. Removal of judges without impeachment.
32. Style of laws.
33. Census once in ten years.

SECTIONS.

34. Apportionment of Representatives—limit of numbers.
35. Apportionment of Senators—limit of numbers.
36. Classification of Senators.
37. Division of counties—change of seat—limit of size in counties.
38. Members of Legislature not eligible to other offices.
39. Contested elections.

ARTICLE V. — *Executive.*

1. Executive power vested in Governor—term.
2. Election returns—how made and announced—contested elections.
3. Qualifications of Governor.
4. Salary to be fixed by law.
5. Commander-in-Chief of militia, except when in service of United States.
6. May require information in writing, of officers of Executive department.
7. May convene the Legislature—when at places other than seat of government—may adjourn it in certain case.
8. To communicate by message.
9. To see that the laws are executed.
10. Pardoning power—limited in treason.
11. Great seal.
12. Commissions, how signed, sealed and attested.
13. Vacancies in office, how filled.
14. Lieutenant-Governor—term—qualifications.
15. President of Senate—may debate in committee of the whole—casting vote.
16. Pay of Lieutenant-Governor.
17. When to act as Governor—President of Senate—Speaker and Secretary of State, when to act as Governor.
18. Contested election of Lieutenant-Governor.
19. Secretary of State—qualifications—term—duties.
20. State Treasurer—Auditor of Public Accounts—terms—qualifications.
21. Sheriffs—coroners—treasurers—assessors—surveyors.
22. Terms of officers limited.

ARTICLE VI. — *Judiciary.*

1. Judicial power, how vested.
2. Supreme Court, how composed—judges appointed—quorum—judicial districts.
3. Term of judges—classification.
4. Jurisdiction of Supreme Court limited.
5. Vacancies in office of judge.
6. Qualification of judges.
7. Terms of Supreme Court.
8. Classification, how made.
9. Cases in which a judge may not act—temporary appointments.
10. Salary of Judges.
11. Judges of Circuit Courts appointed by Governor and Senate.
12. Qualification of Judges of Circuit Court.
13. Judicial districts.
14. Jurisdiction of Circuit Court.
15. Terms of Circuit Courts—interchange of Circuits—pay of Judges.
16. Chancery Courts to be established in each county—jurisdiction.
17. Chancery districts—Chancellors—terms—qualifications.
18. Style of process—prosecutions how carried on—conclusion of indictments.
19. Clerks of courts—term—duties.
20. Boards of Supervisors—in each county.
21. Qualifications of Supervisors—vacancies.
22. Judges conservators of the peace.
23. Justices of Peace—appointment—term—jurisdiction—appeals.
24. Inferior courts may be established.
25. Attorney-General—election—District Attorneys—term—duties—pay.
26. Removal of county officers.

ARTICLE VII. — *Franchise.*

SECTIONS.

1. Elections to be by ballot.
2. Qualifications of voters.
3. Registration of voters—oaths.
4. None but voters eligible to office.
5. Persons excluded from office—proviso—private soldiers of Confederate army not excluded.
6. Voting in time of war may be provided for.

ARTICLE VIII. — *School Funds, Education and Science.*

1. Duty of Legislature to encourage learning.
2. Superintendent of Public Education—election—term—duties.
3. Board of Education—duties—quorum.
4. County Superintendents of Public Education—term—duties—may be elective.
5. Public schools to be maintained—neglect will deprive of share of moneys.
6. Common school fund—how derived.
7. Poll tax may be levied.
8. Agricultural college to be founded.
9. No religious sect to have control of school or university funds.
10. Taxes for support of free schools—*pro rata* distribution.

ARTICLE IX. — *Militia.*

1. Persons liable to military duty.
2. Militia to be organized, armed and equipped.
3. Laws to be passed by first Legislature—organizing militia.
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PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Mississippi, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All persons resident in this State, citizens of the United States, are hereby declared citizens of the State of Mississippi.

§ 2. No person shall be deprived of life, liberty, or property, except by due process of law.

§ 3. The privilege of the writ of *habeas corpus* shall not be suspended unless when in case of rebellion or invasion the public safety may require it.

§ 4. The freedom of speech and of the press shall be held sacred, and in all indictments for libel the jury shall determine the law and the facts under the direction of the court.

§ 5. No person's life or liberty shall be twice placed in jeopardy for the same offense.

§ 6. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

§ 7. In all criminal prosecutions the accused shall have a right to be heard by himself, or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have a compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictment or information a speedy and

public trial by an impartial jury of the county where the offense was committed; and he shall not be compelled to give evidence against himself.

§ 8. Cruel or unusual punishment shall not be inflicted, nor shall excessive fines be imposed; excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or presumption great.

§ 9. No *ex post facto* law, or laws impairing the obligation of contracts, shall ever be passed.

§ 10. Private property shall not be taken for public use except upon due compensation first being made to the owner or owners thereof in a manner to be provided by law.

§ 11. There shall be no imprisonment for debt.

§ 12. The right of trial by jury shall remain inviolate.

§ 13. No property qualification shall ever be required of any person to become a juror.

§ 14. The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search, and no warrant shall be issued without probable cause, supported by oath or affirmation specially designating the place to be searched and the person or thing to be seized.

§ 15. All persons shall have a right to keep and bear arms for their defense.

§ 16. The rights of married women shall be protected by law in property owned previous to marriage; and also, in all property acquired in good faith by purchase, gift, devise or bequest, after marriage: *Provided*, That nothing herein contained shall be so construed as to protect said property from being applied to the payment of their lawful debts.

§ 17. No property qualification for eligibility to office shall ever be required.

§ 18. No property nor educational qualification shall ever be required for any person to become an elector.

§ 19. There shall be neither slavery nor involuntary servitude in this State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

§ 20. The right to withdraw from the federal Union on account of any real or supposed grievances shall never be assumed by this State, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this State to the government of the United States.

§ 21. No public money or moneys shall be appropriated for any charitable or other public institutions in this State making any distinction among the citizens thereof: *Provided*, That nothing herein contained shall be so construed as to prevent the Legislature from appropriating the school fund in accordance with the article in this Constitution relating to public schools.

§ 22. No distinction shall ever be made by law between citizens and alien friends in reference to the possession, enjoyment, or descent of property.

§ 23. No religious test as a qualification for office shall ever be required, and no preference shall ever be given by law to any religious sect or mode of worship, but the free enjoyment of all religious sentiments and the different modes of worship shall ever be held sacred: *Provided*, The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the State.

§ 24. The rights of all citizens to travel upon all public conveyances shall not be infringed upon, nor in any manner abridged in this State.

§ 25. The military shall be in strict subordination to the civil power.

§ 26. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 27. No person's life shall be periled by the practice of dueling; and any person who shall hereafter fight a duel, or assist in the same as second, or send, or accept, knowingly carry a challenge therefor, or go out of the State to fight a duel, shall be disqualified from holding any office under this Constitution, and shall forever be disfranchised in this State.

§ 28. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

§ 29. No person shall ever be elected or appointed to any office in this State for life or during good behavior; but the term of all offices shall be for some specified period.

§ 30. No person shall be debarred from prosecuting or defending any civil cause for or against him or her self, before any tribunal in this State, by him or herself, or counsel, or both.

§ 31. No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, or by leave of the court, for misdemeanor in office: *Provided*, That the Legislature, in cases of petit larceny, assaults, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before Justices of the Peace, or such other inferior court or courts as may be established by the Legislature, and the proceedings in such cases shall be regulated by law.

§ 32. The enumeration of rights in this Constitution shall not be construed to deny or impair others retained by and inherent in the people.

ARTICLE II.

BOUNDARIES OF THE STATE.

The limits and boundaries of the State of Mississippi shall remain as now established by law.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of government of the State of Mississippi shall be divided into three distinct Departments, and each of them confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Judicial to another; and those which are Executive to another.

§ 2. No person or collection of persons, being of one of these Departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in the Legislature, which shall consist of a Senate and House of Representatives.

§ 2. The House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

§ 3. No person shall be a member of the House of Representatives who shall not be an elector under this Constitution; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

§ 4. The Senate shall consist of members to be chosen every four years by the qualified electors of the several districts.

§ 5. No person shall be a Senator who shall not have attained the age of twenty-five years, who shall not have been an inhabitant of the State one year, and who shall not have an actual residence in the district he may be chosen to represent.

§ 6. The political year shall begin on the first Monday of January, and the Legislature shall meet annually on the first Tuesday after first Monday in January, at the seat of government, unless sooner convened by the Governor, until altered by law.

§ 7. All general elections shall be by ballot, and shall commence and be holden every two years, on the first Tuesday after the first Monday in November, until altered by law; and the electors, in all cases, except in cases of treason, felony, and breach of the peace, shall be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

§ 8. Election for members of the Legislature shall be held in the several counties and districts as shall be provided by law.

§ 9. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature, and the persons thereupon chosen shall hold their seats for the unexpired term.

§ 10. Each House shall appoint its own officers, and shall judge of the qualifications, returns, and election of its own members.

§ 11. The Senate shall choose a President *pro tempore*, to act in the absence or disability of the Lieutenant-Governor.

§ 12. A majority of each House shall constitute a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as such House shall provide.

§ 13. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

§ 14. Each House may determine rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of the members present, expel a member; but no member shall be expelled a second time for the same offense. They shall each, from time to time, publish a journal of the proceedings, except such as may, in their opinion, require secrecy, and the yeas and nays on any question shall be entered on the journal at the request of one-tenth of the members present: *Provided*, That the yeas and nays shall always be entered on the journal on the passage of a bill appropriating money.

§ 15. The doors of each House, when in session, or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each House may punish by fine and imprisonment any person not a member who shall be guilty of disrespect to the House by any disorderly or contemptuous behavior in their presence, or in any way disturb their deliberations during the session; but such imprisonment shall not extend beyond the final adjournment of that session.

§ 16. No person liable for public moneys unaccounted for shall be eligible to a seat in either House of the Legislature, or to any office of profit or trust, until he shall have accounted for and paid over all sums for which he may have been liable.

§ 17. No person shall be eligible to any office of profit or trust, nor shall he be permitted to exercise the right of suffrage within this State, who shall have been convicted of bribery, perjury, or other infamous crimes.

§ 18. Any person who shall have been convicted of giving or offering, directly or indirectly, any bribe to procure his election or appointment, and any person who shall give or offer any bribe to procure the election or appointment of any person to office, shall, on conviction thereof, be disqualified from being an elector, or holding any office of profit or trust under the laws of this State.

§ 19. Senators and Representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and for fifteen days before the commencement and after the termination of each session.

§ 20. The members of the Legislature shall severally receive from the public treasury compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

§ 21. The Legislature shall direct by law in what courts and in what manner suits may be brought against the State.

§ 22. The Legislature shall not have power to pass any bill of divorce, but may prescribe by law the manner in which cases shall be investigated in courts of justice, and divorces granted.

§ 23. Bills may originate in either House, and be amended or rejected in the other; and every bill shall be read on three different days, in each House, unless two-thirds of the House where the same is pending shall dispense with the rules; and every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House of Representatives, in open session.

§ 24. Every bill, which has passed both Houses, shall be presented to the Governor of the State. If he approves, he shall sign it; but if

he does not approve, he shall return it, with his objections, to the House in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which, likewise, it shall be reconsidered, and, if approved by two-thirds of that House, it shall become a law; but in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it has been presented to him, it shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevented its return, in which case it shall be a law, unless sent back within three days after its next meeting.

§ 25. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary (except on questions of adjournment), shall be presented to the Governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by two-thirds of both Houses, according to the rules of limitation prescribed in all cases of a bill.

§ 26. No money shall be drawn from the treasury except on appropriation made by law.

§ 27. The House of Representatives shall have the sole power of impeachment, but two-thirds of all the members present must concur therein. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence.

§ 28. The Governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office.

§ 29. When the Governor shall be tried, the Chief Justice of the Supreme Court shall preside, and no person shall be convicted without the concurrence of two-thirds of all the Senators present.

§ 30. Judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

§ 31. For reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall, on the joint address of two-thirds of each branch of the Legislature, remove from office the Judges of the Supreme and inferior courts: *Provided*, The cause or causes of

removal be spread on the journal, and the party charged be notified of the same before the vote is finally taken and decided, and shall have an opportunity to be heard by himself or counsel, or both.

§ 32. The style of the laws of the State shall be: "Be it enacted by the Legislature of the State of Mississippi."

§ 33. The Legislature shall provide for the enumeration of the whole number of inhabitants, and of the qualified electors of the State, once in every ten years; and the first enumeration shall be ordered at the first meeting of the Legislature under this Constitution.

§ 34. The number of Representatives shall, at the several periods of making such enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not be less than one hundred, nor more than one hundred and twenty.

§ 35. The number of Senators shall, upon each enumeration made, be apportioned according to the number of qualified electors in the several districts, and shall never be less than one-fourth nor more than one-third the whole number of Representatives.

§ 36. The Senators, on being convened after the first election, shall be divided by lot from their respective Congressional Districts into two classes, as nearly equal as can be, and the seats of the first class shall be vacated at the expiration of the second year.

§ 37. The Legislature shall provide for the organization of new counties, locating county seats, and changing county lines; but no county shall be organized nor the lines of any county changed so as to include an area of less than four hundred nor more than six hundred and twenty-five square miles.

§ 38. No Senator or Representative, during the term for which he was elected, shall be appointed to any office of profit under this State, which shall have been created, or the emoluments of which have been increased, during the time such Senator or Representative was in office, except to such offices as may be filled by an election of the people.

§ 39. The Legislature shall provide by law for determining contested elections.

ARTICLE V.

EXECUTIVE.

SECTION 1. The chief Executive power of the State shall be vested in a Governor, who shall hold his office for four years.

§ 2. The Governor shall be elected by the qualified electors of the State. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Secretary

¹ Thus, in the edition printed in *Miscel. Docs.* No. 14, 1st Sess., 41st Cong.

of State, who shall deliver them to the Speaker of the House of Representatives at the next ensuing session of the Legislature, during the first week of which session the said Speaker shall open and publish them in presence of both Houses of the Legislature. The person having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen Governor by the joint ballot of both Houses of the Legislature. Contested elections for Governor shall be determined by both Houses of the Legislature in such manner as shall be prescribed by law.

§ 3. The Governor shall be at least thirty years of age, shall have been a citizen of the United States twenty years, and shall have resided in this State two years next preceding the day of his election.

§ 4. He shall receive for his services such compensation as shall be provided by law.

§ 5. He shall be Commander-in-Chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

§ 6. He may require information, in writing, from the officers in the Executive Department, on any subject relating to the duties of their respective offices.

§ 7. He may, in cases of emergency, convene the Legislature at the seat of government, or at a different place, if that shall have become dangerous from an enemy, or from disease; and in case of disagreement between the two Houses with respect to time of adjournment adjourn them to such time as he shall think proper, not beyond the day of the next stated meeting of the Legislature.

§ 8. He shall, from time to time, give the Legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

§ 9. It shall be his duty to see that the laws are faithfully executed.

§ 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines, and in cases of forfeiture to stay the collection until the end of the next session of the Legislature, and to remit forfeitures by and with the consent of the Senate. In cases of treason he shall have power to grant reprieves by and with the consent of the Senate, but may respite the sentence until the end of the next session of the Legislature.

§ 11. There shall be a seal of the State kept by the Governor, and used by him officially, and be called the Great Seal of the State of Mississippi.

§ 12. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the Great Seal of State,

and signed by the Governor, and be attested by the Secretary of State.

§ 13. All vacancies not provided for in this Constitution shall be filled in such manner as the Legislature may prescribe.

§ 14. There shall be a Lieutenant-Governor, who shall be elected at the same time, in the same manner, and for the same term, and shall possess the same qualifications as the Governor.

§ 15. He shall, by virtue of his office, be President of the Senate. In committee of the whole he may debate on all questions, and when there is an equal division in the Senate, or on a joint vote of both Houses, he shall give the casting vote.

§ 16. He shall receive for his services such compensation as may be provided by law.

§ 17. When the office of Governor shall become vacant by death or otherwise, the Lieutenant-Governor shall possess the powers and discharge the duties of said office, and receive the same compensation as the Governor during the remainder of the said term. When the Governor shall be absent from the State, or unable, from protracted illness, to perform the duties of his office, the Lieutenant-Governor shall discharge the duties of said office, and receive said compensation until the Governor be able to resume his duties; but if, from disability or otherwise, the Lieutenant-Governor shall be incapable of performing said duties, or if he be absent from the State, the President of the Senate, *pro tempore*, shall act in his stead; but if there be no such President, or if he be disqualified by like disability, or be absent from the State, then the Speaker of the House of Representatives shall assume the office of Governor, and perform said duties, and receive the same compensation as the Governor, and in case of the inability of the foregoing officers to discharge the duties of Governor, the Secretary of State shall convene the Senate to elect a President *pro tempore*.

§ 18. In case the election for Lieutenant-Governor shall be contested, it shall be decided in the same manner as that of the Governor.

§ 19. The Secretary of State shall be elected by the qualified electors of the State; shall be at least twenty-five years of age, and a citizen of the State one year next preceding the day of his election, and shall continue in office during the term of four years; he shall keep a correct register of all the official acts and proceedings of the Governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the Legislature, and shall perform such other duties as may be required by law.

§ 20. A State Treasurer and Auditor of Public Accounts shall be elected by the qualified electors of the State, who shall hold their

offices for the term of four years, unless sooner removed, and shall possess the same qualifications as the Secretary of State; and, together with the last named officer, shall receive such compensation as may be provided by law.

§ 21. A Sheriff, Coroner, Treasurer, Assessor, and Surveyor, shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed.

§ 22. All officers named in this article shall hold their offices during the term for which they were elected, unless removed by impeachment or otherwise, and until their successors shall be duly qualified to enter on the discharge of their separate duties.

ARTICLE VI.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court and such other courts of law and equity as are hereafter provided for in this Constitution.

§ 2. The Supreme Court shall consist of three Judges, who shall be appointed by the Governor, by and with the advice and consent of the Senate, any two of whom, when convened, shall form a quorum. The Legislature shall divide the State into three districts; and the Governor, by and with the advice and consent of the Senate, shall appoint one Judge for each district.

§ 3. The office of one of said Judges shall be vacated in three years; one in six years and one in nine years, so that at the expiration of every three years one of said Judges shall be appointed as aforesaid. The term of office of the Judges of the Supreme Court shall be nine years.

§ 4. The Supreme Court shall have no jurisdiction but such, as properly belongs to a Supreme Court.

§ 5. All vacancies which may occur in said court, from death, resignation, or removal, shall be filled by appointment, as aforesaid: *Provided, however,* That if any vacancy shall occur during the recess of the Legislature, the Governor shall appoint a successor, who shall hold his office until the next meeting of the Legislature.

§ 6. No person shall be eligible to the office of Judge of the Supreme Court who shall not have attained the age of thirty years at the time of his appointment, and who shall not have been for two years immediately preceding a citizen of the State.

§ 7. The Supreme Court shall be held twice in each year at the seat of government, at such times as the Legislature may prescribe.

§ 8. Immediately upon the first appointment of Judges as aforesaid, the Governor, in the presence of, and with the assistance of, the President of the Senate and Secretary of State, shall determine, by lot, which of said Judges shall serve for the term of three years, and which shall serve for the term of six years, and which shall serve for the term of nine years; and it shall be the duty of the Governor to issue commission accordingly.

§ 9. No Judge of said court shall sit on the trial of any cause where the parties, or either of them, shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by the consent of the Judges and of the parties, and whenever a quorum of said court are situated as aforesaid, the Governor of the State shall, in such cases, especially commission two or more men of law knowledge for the determination thereof.

§ 10. The Judges of said court shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

§ 11. The Judges of the Circuit Court shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold their office for the term of six years.

§ 12. No person shall be eligible to the office of Judge of the Circuit Court who shall not, at the time of his appointment, have attained the age of twenty-six years, and shall have been two years a citizen of the State.

§ 13. The State shall be divided into convenient judicial districts.

§ 14. Circuit Courts shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases only, when the principal of the amount in controversy exceeds \$150.

§ 15. A Circuit Court shall be held at least twice in each year, and the Judges of said courts may interchange circuits with each other, in such manner as may be prescribed by law, and shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

§ 16. Chancery Courts shall be established in each county in the State, with full jurisdiction in all matters of equity, and of divorce and alimony; in matters testamentary, and of administration in minor's business, and allotment of dower, and in cases of idiocy, lunacy, and persons *non compotes mentis*.

§ 17. The Legislature shall divide the State into a convenient number of Chancery Districts, to be composed of not more than four counties. Chancellors shall be appointed in the same manner as the Judges of the Circuit Courts. Their qualifications shall be regulated by law, and they shall hold their office for the term of four years.

They shall hold a court in each county at least four times in each year, and shall receive such compensation as may be provided by law.

§ 18. The style of all process shall be, "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of "The State of Mississippi," and shall conclude "against the peace and dignity of the same."

§ 19. The Clerk of the Supreme Court shall be appointed by said court for the term of four years, and the Clerk of the Circuit Court and the Clerk of the Chancery Court, shall be elected by the qualified voters of their several counties, and shall hold their office for the term of four years, and the Legislature shall provide by law what duties shall be performed by the Clerks of the Circuit and Chancery Courts, during vacation, subject to the approval of the court.

§ 20. The qualified electors of each county shall elect five persons, by districts, for the term of two years, who shall constitute a Board of Supervisors for each county, a majority of whom may transact business, which body shall have full jurisdiction over roads, ferries, and bridges, and shall order all county elections, to fill vacancies that may arise in the offices of their respective counties, and perform such other duties as shall be provided by law. The Clerk of the Chancery Court of each county shall be the Clerk of such Board of Supervisors.

§ 21. No person shall be eligible as a member of said Board who shall not have resided one year in the county, but this qualification shall not extend to such new counties as may hereafter be established, until one year after their organization, and all vacancies that may occur in said Board shall be supplied by election as aforesaid, to the unexpired term.

§ 22. Judges of all the courts of this State, and all other civil officers, shall, by virtue of their office, be conservators of the peace, and shall be, by law, vested with ample powers in that respect.

§ 23. A competent number of Justices of the Peace and Constables shall be chosen in each county, by the qualified electors thereof, by districts, who shall hold their office for the term of two years. The jurisdiction of Justices of the Peace shall be limited to causes in which the principal of the amount in controversy shall not exceed the sum of \$150. In all causes tried by a Justice of the Peace, the right of appeal shall be secured, under such rules and regulations as shall be prescribed by law.

§ 24. The Legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever they shall deem it expedient.

§ 25. There shall be an Attorney-General elected by the qualified electors of the State, and a competent number of District Attorneys

shall be elected by the qualified electors of the respective districts, whose term of service shall be four years, and whose duties and compensation shall be prescribed by law.

§ 26. Clerks, Sheriffs and other county officers, for willful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by grand jury, and trial by petit jury, and upon conviction shall be removed from office.

ARTICLE VII.

FRANCHISE.

SECTION 1. All elections by the people shall be by ballot.

§ 2. All male inhabitants of this State, except idiots and insane persons, and Indians not taxed, citizens of the United States or naturalized, twenty-one years old and upward, who have resided in this State six months and in the county one month next preceding the day of election, at which said inhabitant offers to vote, and who are duly registered according to the requirements of section three of this article, and who are not disqualified by reason of any crime, are declared to be qualified electors.¹

§ 3. The Legislature shall provide, by law, for the registration of all persons entitled to vote at any election, and all persons entitled to register shall take and subscribe to the following oath or affirmation: "I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am twenty-one years old; that I have resided in this State six months, and in ——— county one month; that I will faithfully support and obey the Constitution and laws of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same; that I am not disfranchised in any of the provisions of the acts known as the Reconstruction Acts of the 39th and 40th Congress, and that I admit the political and civil equality of all men: so help me God." *Provided*, That if Congress shall, at any time, remove the disabilities of any person disfranchised in the said Reconstruction Acts of the said 39th and 40th Congress (and the Legislature of this State shall concur therein), then so much of this oath, and so much only, as refers to the said Reconstruction Acts, shall not be required of such person, so pardoned, to entitle him to be registered.

¹ The Constitutional Convention, on the 13th of March, 1868, passed the following ordinance for the protection of voters:

"Section 1. That no contracts shall be valid which, in any manner, abridge or affect the right of franchise of either party; and any person or persons demanding such conditions shall, upon conviction thereof before any court having competent jurisdiction, be disfranchised for the term of five years, and pay a fine of not less than five hundred dollars.

"Sec. 2. Whoever shall dismiss from employment any person or persons for having exercised the right of franchise, or for offering to exercise such right, shall, on conviction, be fined not less than two hundred and fifty dollars, and be disfranchised for the term of five years."

§ 4. No person shall be eligible to any office of profit or trust, or to any office in the militia of this State, who is not a qualified elector.

§ 5. No person shall be eligible to any office of profit or trust, civil or military, in this State, who, as a member of the Legislature, voted for the call of the Convention that passed the Ordinance of Secession, or who, as a delegate to any Convention, voted for or signed any Ordinance of Secession, or who gave voluntary aid, countenance, counsel or encouragement to persons engaged in armed hostility to the United States, or who accepted or attempted to exercise the functions of any office, civil or military, under any authority or pretended government, authority, power, or Constitution, within the United States, hostile or inimical thereto, except all persons who aided reconstruction by voting for this Convention, or who have continuously advocated the assembling of this Convention, and shall continuously and in good faith advocate the acts of the same; but the Legislature may remove such disability: *Provided*, That nothing in this section, except voting for or signing the Ordinance of Secession, shall be so construed as to exclude from office the private soldier of the late so-called Confederate States army.

§ 6. In time of war, insurrection or rebellion, the right to vote, at such place and in such manner as shall be prescribed by law, shall be enjoyed by all persons otherwise entitled thereto, who may be in the actual military or naval service of the United States or this State; *Provided*, Said votes be made to apply in the county or precinct wherein they reside.

ARTICLE VIII.

SCHOOL FUNDS, EDUCATION AND SCIENCE.

SECTION 1. As the stability of a republican form of government depends mainly upon the intelligence and virtue of the people, it shall be the duty of the Legislature to encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools, by taxation or otherwise, for all children between the ages of five and twenty-one years, and shall, as soon as practicable, establish schools of higher grade.

§ 2. There shall be a Superintendent of Public Education elected at the same time and in the same manner as the Governor, who shall have the qualification of the Secretary of State, and hold his office for four years, and until his successor shall be elected and qualified, whose duties shall be the general supervision of the common schools and the educational interests of the State, and who shall perform such other

duties pertaining to his office, and receive such compensation as shall be prescribed by law; he shall report to the Legislature, for its adoption, within twenty days after the opening of its first session under this Constitution, a uniform system of free public schools.

§ 3. There shall be a Board of Education, consisting of the Secretary of State, the Attorney-General, and the Superintendent of Public Education, for the management and investment of the school funds, under the general direction of the Legislature, and to perform such other duties as may be prescribed by law. The Superintendent and one other of said Board shall constitute a quorum.

§ 4. There shall be a Superintendent of Public Education in each county, who shall be appointed by the Board of Education, by and with the advice and consent of the Senate, whose term of office shall be two years, and whose compensation and duties shall be prescribed by law: *Provided*, That the Legislature shall have power to make said office of county school superintendent of the several counties elective as other county officers are.

§ 5. A public school or schools shall be maintained in each school district at least four months in each year. Any school district neglecting to maintain such school or schools shall be deprived for that year of its proportion of the income of the free-school fund, and of all funds arising from taxes for the support of schools.

§ 6. There shall be established a common school fund, which shall consist of the proceeds of the lands now belonging to the State, heretofore granted by the United States; and of the lands known as "swamp lands," except the "swamp lands" lying and situated on Pearl river, in the counties of Hancock, Marion, Lawrence, Simpson and Copiah; and of all lands now or hereafter vested in the State by escheat, or purchase, or forfeiture for taxes; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws; and all moneys received for licenses granted under the general laws of the State for the sale of intoxicating liquor, or keeping of dram-shops; all moneys paid as an equivalent for persons exempt from military duty; and the funds arising from the consolidation of the Congressional township funds, and the lands belonging thereto, together with all moneys donated to the State for school purposes; which funds shall be securely invested in United States bonds, and remain a perpetual fund, which may be increased but not diminished, the interest of which shall be inviolably appropriated for the support of free schools.

§ 7. The Legislature may levy a poll-tax not to exceed two dollars a head in aid of the school fund, and for no other purpose.

§ 8. The Legislature shall, as soon as practicable, provide for the establishment of an agricultural college or colleges; and shall appropriate the 210,000 acres of land donated to the State for the support of such a college, by the act of Congress passed July 2, A. D. 1865, or the money or scrip, as the case may be, arising from the sale of said lands or any lands which may hereafter be granted or appropriated for such purpose.

§ 9. No religious sect or sects shall ever control any part of the school or university funds of this State.

§ 10. The Legislature shall, from time to time, as may be necessary, provide for the levy and collection of such other taxes as may be required to properly support the system of free schools herein adopted; and all school funds shall be divided *pro rata* among the children of school age.

ARTICLE IX.

MILITIA.

SECTION 1. All able-bodied male citizens of this State between the ages of eighteen and forty-five years shall be liable to military duty in the militia of this State, in such manner as the Legislature shall provide, not incompatible with this Constitution and the Constitution and laws of the United States.

§ 2. The Legislature shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same when called into active service.

§ 3. It shall be the duty of the first Legislature to make such laws as shall be necessary to immediately create an effective militia in this State.

§ 4. All officers of militia, except non-commissioned officers, shall be appointed by the Governor, by and with the consent of the Senate; and shall be chosen for their military knowledge, their experience in arms, and their fidelity and loyalty; and no commissioned officer shall be removed from office except by the Senate, on recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law, or at his own request.

§ 5. The Governor shall be commander-in-chief of the militia, except when it is called into the service of the United States; and shall have power to call forth the militia to execute the laws, repel invasion, and to suppress riots and insurrections.

§ 6. The Governor shall nominate, and, by and with the consent of the Senate, commission, one major-general for the State, who shall be a

citizen thereof; and also one Brigadier-General for each Congressional district, who shall be a resident of the district for which he shall be appointed; and each district shall constitute a militia division.

§ 7. The Adjutant-General, and other staff officers to the Commander-in-Chief, shall be appointed by the Governor, and their appointment shall expire with the Governor's term of office.

§ 8. The militia shall be exempt from arrest during their attendance on musters, and in going to and returning from the same, except in case of treason, felony, or breach of the peace.

ARTICLE X.

INTERNAL IMPROVEMENTS.

SECTION 1. The Legislature, at its first regular session after the adoption of this Constitution, shall provide for the organization of a board of public works, prescribe its duties, fix the compensation of its members, and all officers employed upon public works in the State.

ARTICLE XI.

APPORTIONMENT.

SECTION 1. Until the first enumeration and a new apportionment shall be made as provided and directed in this Constitution, the apportionment of Senators and Representatives among the several counties and districts in this State shall be as follows:

1st. The county of Warren, five Representatives.

2d. The counties of Hinds and Lowndes, each four Representatives.

3d. The counties of Adams, Carroll, De Soto, Holmes, Madison, Marshall, Monroe, Noxubee, Washington, and Yazoo, each three Representatives.

4th. The counties of Attala, Chickasaw, Choctaw, Claiborne, Copiah, Jefferson, Lafayette, Lauderdale, Pontotoc, Oktibbeha, Panola, Tippah, Wilkinson, Yalobusha, Tishomingo, and Rankin, each two Representatives.

5th. The counties of Amite, Bolivar, Calhoun, Clarke, Franklin, Issaquena, Itawamba, Jasper, Kemper, Lawrence, Leake, Lee, Pike, Sunflower, Scott, Tallahatchie, Winston, Simpson, Coahoma, Tunica, Newton, Neshoba, Covington, Smith, Wayne, Davis, Greene, Jackson, Hancock, Marion, Harrison, and Perry, each one Representative.

§ 2. 1st. The counties of Hancock, Harrison, Jackson, Marion, Greene, and Perry, shall form the First District, and elect one Senator.

2d. The counties of Wilkinson and Amite, the Second District, and one Senator.

3d. The counties of Pike, Lawrence, and Covington, the Third District, and one Senator.

4th. The county of Adams, the Fourth District, and one Senator.

5th. The counties of Franklin and Jefferson, the Fifth District, and one Senator.

6th. The counties of Claiborne and Copiah, the Sixth District, and one Senator.

7th. The counties of Warren and Issaquena, the Seventh District, and two Senators.

8th. The counties of Hinds, Rankin, and Simpson, the Eighth District, and two Senators.

9th. The counties of Davis, Jasper, Clarke, and Wayne, the Ninth District, and one Senator.

10th. The counties of Lauderdale and Kemper, the Tenth District, and one Senator.

11th. The counties of Newton, Smith and Scott, the Eleventh District, and one Senator.

12th. The county of Madison, the Twelfth District, and one Senator.

13th. The county of Yazoo, the Thirteenth District, and one Senator.

14th. The counties of Washington and Sunflower, the Fourteenth District and one Senator.

15th. The county of Holmes, the Fifteenth District, and one Senator.

16th. The counties of Attala, Leake, and Neshoba, the Sixteenth District, and one Senator.

17th. The county of Noxubee, the Seventeenth District, and one Senator.

18th. The counties of Lowndes and Oktibbeha, the Eighteenth District, and two Senators.

19th. The counties of Choctaw and Winston, the Nineteenth District, and one Senator.

20th. The county of Carroll, the Twentieth District, and one Senator.

21st. The counties of Calhoun and Yalobusha, the Twenty-first District, and one Senator.

22d. The counties of Chickasaw and Monroe, the Twenty-second District, and two Senators.

23d. The counties of Bolivar, Coahoma, and Tunica, the Twenty-third District, and one Senator.

24th. The counties of Panola and Tallahatchie, the Twenty-fourth District, and one Senator.

25th. The county of De Soto, the Twenty-fifth District, and one Senator.

26th. The county of Marshall, the Twenty-sixth District, and one Senator.

27th. The counties of Lafayette and Pontotoc, the Twenty-seventh District, and one Senator.

28th. The counties of Tishomingo and Itawamba, the Twenty-eighth District, and one Senator.

29th. The counties of Tippah and Lee, the Twenty-ninth District, and one Senator.

ARTICLE XII.

GENERAL PROVISIONS.

SECTION 1. The political year of the State of Mississippi shall commence on the first Monday of January in each year, and the general election shall be holden on the first Tuesday succeeding the first Monday in November, biennially.

§ 2. The Legislature shall pass laws to exclude from office and from suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors; and every person shall be disqualified from holding any office, or place of honor, profit, or trust under the authority of this State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

§ 3. No person who denies the existence of a Supreme Being shall hold any office in this State.

§ 4. The Legislature shall provide by law for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offense was committed, whenever, owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impanelled in the county in which the offense was committed.

§ 5. The credit of the State shall not be pledged or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

§ 6. The term of office of all county, township, and precinct officers shall expire within thirty days after this Constitution shall have been ratified, and the Governor shall, by and with the advice and consent of the Senate, thereafter appoint such officers, whose term of office shall continue until the Legislature shall provide, by law, for an election of said officers: *Provided*, The present incumbents of all county, township, district, and beat offices shall hold their respective offices

until their successors are legally appointed or elected and duly qualified.

§ 7. In all cases not otherwise provided for in this Constitution, the Legislature may determine the mode of filling all vacancies in all offices, and shall define their respective powers, and provide suitable compensation for all officers.

§ 8. The Legislature, at its first session, shall provide by law for the sale of all delinquent tax lands. The courts shall apply the same liberal principles in favor of such titles as in sale by execution.

§ 9. No laws of a general feature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

§ 10. It shall be the duty of the Legislature to regulate, by law, the cases in which deductions shall be made from salaries of public officers for neglect of duty in their official capacity, and the amount of said deduction.

§ 11. The Legislature, at its first session under this Constitution, shall have authority to designate, by law, such loyal paper or papers, in each Circuit Court district, as shall publish all legal advertising, and such official printing as shall be required by law, in such Circuit Court district, and fix the compensation therefor.

§ 12. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing or putting in circulation, any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the Legislature shall prohibit, by law, individuals or corporations from issuing bills, checks, tickets, promissory notes, or other papers, as money. But nothing herein contained shall be construed as preventing corporations or associations from forming for such purposes under the acts of Congress for a national system of banking.

§ 13. The property of all corporations for pecuniary profits shall be subject to taxation, the same as that of individuals.

§ 14. The Legislature shall not authorize any county, city, or town to become a stockholder in, or to loan its credit to any company, association, or corporation, unless two-thirds of the qualified voters of such county, city, or town, at a special election, or regular election, to be held therein, shall assent thereto.

§ 15. The Legislature shall never authorize any lottery, nor shall the sale of lottery tickets be allowed, nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

§ 16. No county shall be denied the right to raise, by special tax, money sufficient to pay for the building and repairing of court-houses, jails, bridges, and other necessary conveniences for the people of the

county; and money thus collected shall never be appropriated for any other purpose: *Provided*, The tax thus levied shall be a certain per cent on all tax levied by the State.

§ 17. Liabilities of banks, associations, and other corporations, shall be secured by legislative enactments; but in all cases no stockholder shall be individually liable over and above the stock by him or her owned, unless so specified in the articles of association or act of incorporation.

§ 18. All lands sold in pursuance of decree of courts or execution shall be divided into tracts not to exceed 160 acres.

§ 19. Returns of all elections by the people shall be made to the Secretary of State in such manner as may be prescribed by law.

§ 20. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law.

§ 21. The State of Mississippi shall never assume nor pay any debt or obligation contracted in aid of the rebellion, nor shall this State ever in any manner claim from the United States, or make any allowance or compensation for slaves emancipated or liberated in any way whatever since the 9th day of January, 1861.

§ 22. All persons who have not been married, but are now living together, and cohabiting as husband and wife, shall be taken and held, for all purposes in law, as married, and their children, whether born before or after the ratification of this Constitution, shall be legitimate, and the Legislature may, by law, punish adultery and concubinage.

§ 23. There shall be a Commissioner of Immigration and Agriculture, who shall be elected by the Legislature on joint ballot, who shall hold his office for the term of four years, unless sooner removed by law.

§ 24. The next Legislature shall have power to repeal statutes of limitation, pass relief, stay injunction, insolvent and homestead laws, and to pass any and every act deemed necessary for the relief of debtors, subject only to the restrictions imposed by the Constitution of the United States.

§ 25. Representatives in Congress to fill the existing vacancies shall be elected at the same time this Constitution is submitted to the electors of the State for ratification, and for the full term next succeeding their election, and thereafter elections for Representatives in Congress shall be held biennially. The first election shall be held on the first Tuesday after the first Monday in November preceding the expiration of said full term.

§ 26. Members of the Legislature, and all other officers elected or appointed to any office in this State, shall, before entering upon the

discharge of the duties thereof, take and subscribe the following oath of office:

OATH OF OFFICE.

"I, ———, do solemnly swear (or affirm) that I will faithfully support, and true allegiance bear the Constitution of the United States, and the State of Mississippi, and obey the laws thereof; that I am not disqualified from holding office by the Constitution of the United States or the State of Mississippi; that I have never, as a member of any Convention, voted for or signed any ordinance of secession; that I have never, as a member of any State Legislature voted for the call of any Convention that passed any such ordinance; that I will faithfully discharge the duties of the office upon which I, am about to enter: so help me God."

§ 27. It shall be the duty of the Legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind, and also for the treatment and care of the insane.

§ 28. The Legislature shall provide houses of refuge for the correction and reformation of juvenile offenders.

§ 29. The county boards shall have power to provide farms as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE XIII.

ORDINANCE AND SCHEDULE.

Mode of Revising the Constitution.

Whenever two-thirds of each branch of the Legislature shall deem any change, alteration, or amendment necessary to this Constitution, such proposed change, alteration, or amendment, shall be read and passed by a two-thirds vote of each House respectively on each day for three several days; public notice shall then be given by the Secretary of State at least three months preceding the next general election, at which the qualified electors shall vote directly for or against such change, alteration, or amendment; and if more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately; and if it shall appear that a majority of the qualified electors voting for members of the Legislature shall have voted for the proposed change, alteration, or amendment, then it shall be inserted by the next succeeding Legislature as a part of this Constitution, and not otherwise: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eighty-five, shall in any manner affect the eighteenth section of the bill of rights.

SCHEDULE.

SECTION 1. The ordinance of secession of the State of Mississippi, passed January 9, 1861, is hereby declared to be null and void. The present and all previous Constitutions of the State of Mississippi are hereby declared to be repealed and annulled by this Constitution.

§ 2. All laws now in force in this State, not enacted in furtherance of secession and rebellion, and not repugnant to this Constitution, shall continue in operation until they shall expire by their own limitation, or be altered or repealed by the Legislature, except the hereinafter mentioned laws, to wit:

“An act to change the name of the county of Jones, and for other purposes,” approved December 1, A. D. 1865.

“An act to establish a ferry across the Mississippi river at Vicksburg,” approved November 29, A. D. 1865.

“An act to provide for the removal and location of the seat of justice of Scott county,” approved November 8, A. D. 1865.

“An act supplemental to an act entitled ‘An act to provide for the removal and location of the seat of justice of Scott county,’ approved November 8, 1865,” approved December 1, A. D. 1865.

§ 3. The Legislature shall provide for the removal of causes now pending in the courts of this State to courts created by or under this Constitution.

ORDINANCE.

§ 4. Immediately upon the adjournment of this Convention this Constitution shall be submitted for ratification to the registered voters of the State, in conformity with the acts of Congress, passed March 2, 1867, entitled “An act to provide for the more efficient government of the Rebel States,” and the acts supplementary thereto.

§ 5. The election for the ratification of this Constitution shall commence on the 22d day of June, A. D. 1868, and be held at such places, and shall continue such time, as the Commanding General of the Fourth Military District may direct, and the polls shall be kept open from eight o'clock A. M. until seven o'clock P. M. each day. At said election all those in favor of ratifying the Constitution, shall have written or printed on their ballots the words, “For Constitution;” and those opposed to the ratification of the same shall have written or printed on their ballots the words, “Against Constitution;” but no person shall vote for or against this Constitution on a separate ballot from that cast by him for officers to be elected at said election under this Constitution.

§ 6. In order to establish a civil government as required by the act of Congress, approved March 2, 1867, and the acts supplementary

thereto, an election shall be held at the same time and place at which the Constitution is submitted for ratification, for all State officers, including members of the Legislature and for Representatives in Congress, at which election the electors who are qualified under the reconstruction acts of Congress shall vote, and none other.

§ 7. The Committee of Five appointed under the authority of this Convention shall appoint three Commissioners of Election for each county, whose duty it shall be to attend the election for the ratification or rejection of the Constitution, who shall also, at the same time and place, attend the election for all officers and Representatives herein ordered, and be present at the counting of the votes, and forward the result of the same to the chairman of said committee within three days thereafter.

§ 8. The Legislature elected under this Constitution shall hold its first session in the Capitol, in the city of Jackson, on the second Monday after the official promulgation of the ratification of this Constitution, and shall proceed immediately upon its organization to vote upon the adoption of the Fourteenth Amendment to the Constitution of the United States, proposed by Congress, and passed June 13, 1866. Said Legislature shall not have power to enact any laws relative to the per diem of members, nor on any other subject, after organization, until said constitutional amendment shall have been adopted.

§ 9. The first term of all civil officers elected at the same time this Constitution is submitted for ratification or rejection, shall commence on the second Monday after their election shall have been officially promulgated, and shall continue to hold from said time until the expiration of the first full term succeeding the election.

§ 10. The Commissioners of Election herein provided for shall receive the same compensation per day, while in attendance upon elections, and allowances for transportation (when actual disbursements have been made) as Registrars, and shall be paid out of any funds in the State treasury to the credit of the Convention fund, upon the certificate of the chairman of said Committee of Five.

§ 11. The Committee of Five appointed by this Convention is hereby authorized and empowered to adjust all outstanding accounts against the same, and certify to their correctness, and the Auditor of Public Accounts shall issue his warrant in payment thereof.

§ 12. When this Convention adjourns it shall be subject to the call of the Committee of Five appointed by this Convention: *Provided*, That should the Constitution be ratified, this Convention shall thereafter be deemed adjourned *sine die*, but in case the Constitution

should not be ratified, then the Convention may be reconvened by said committee.

§ 13. Said Committee shall have authority to employ a clerk and to enforce the collection of the taxes levied by the several ordinances of this Convention, and to perform any and all duties appertaining to the same.

§ 14. The members of the Committee of Five appointed by this Convention, and the clerk thereof, shall receive the same compensation as the members of the Convention.

§ 15. If any candidate receiving the highest number of votes cast cannot take the oath of office prescribed in this Constitution, then, and in that case, the candidate receiving the next highest vote shall be entitled to enter upon and perform the duties of the office upon taking and subscribing to said oath.

B. B. EGGLESTON, *President,*

Attest: *and Delegate from Lowndes County.*

THAD. P. SEARS, *Secretary.*

LIST OF DELEGATES WHO SIGNED THE CONSTITUTION.

A. Alderson, Jefferson county.	Henry P. Jacobs, Adams county.
Robert J. Alcorn, Yalobusha county.	A. J. Jamison, Chicaw county.
Horatio N. Ballard, Desoto county.	A. Johnson, Warren county.
H. W. Barry, Holmes county.	J. H. Kerr, Calhoun county.
Charles W. Beam, Franklin county.	M. H. Lack, Scott county.
Peres Bonney, Pike county.	W. Lawson, Lawrence county.
N. B. Bridges, Choctaw county.	Benjamin Leas, Warren county.
John C. Brinson, Rankin county.	William Leonard, Yazoo county.
C. Caldwell, Hinds county.	Henry Mayson, Hinds county.
Edward J. Castello, Adams county.	H. Mask, Tishomingo county.
Carlos Chapman, Covington county.	H. Musgrove, Clarke county.
N. J. Chappell, Noxubee county.	J. Aaron Moore, Lauderdale county.
Charles W. Clarke, Yazoo county.	A. T. Morgan, Yazoo county.
S. C. Conly, Attala county.	Cyrus Myers, Rankin county.
W. T. Combash, Washington county.	A. Mygatt, Warren county.
W. Ben. Cunningham, Madison county.	George C. McKee, Warren county.
A. S. Dowd, Coahoma county.	W. V. McKnight, Jasper county.
Amos Draine, Madison county.	M. T. Newsom, Claiborne county.
John Elliott, Itawamba county.	W. D. Nesbit, De Soto county.
James Elliott, Monroe county.	Jason Niles, Attala county.
John Fawn, Washington county.	U. Ozanne, Panola county.
Chas. W. Fitzhugh, Wilkinson county.	Frederick Parsons, Adams county.
W. H. Gibbs, Wilkinson county.	J. R. Parsons, Hinds county.
Emanuel Handy, Copiah county.	E. A. Peyton, Hinds county.
Jerre Hauser, Kemper county.	S. H. Powell, Noxubee county.
J. Lewellen Herbert, Monroe county.	D. N. Quinn, Sunflower county.
G. H. Holland, Choctaw county.	Jehiel Railsback, Bolivar county.
A. R. Howe, Panola county.	Jared Richardson, Winston county.
W. A. Hutto, Neshoba county.	Isham Stewart, Noxubee county.

Doctor Stiles, Washington county.
George Stovall, Carroll county.
Thomas W. Stringer, Warren county.
Edward H. Stiles, Claiborne county.
E. R. Smith, Chickasaw county.
H. P. Toy, Issaquena county.

Henry W. Warren, Leake county.
James Weir, Oktibbeha county.
D. McA. Williams, Holmes county.
J. B. Woodmansee, Monroe county.
William Yeoman, Wayne county.



MISSOURI.

Missouri was included in the Louisiana purchase of April 30, 1803, and under its former government settlements existed at New Madrid, Cape Girardeau, Ste Genevieve, and St. Louis, which were chiefly supported by Indian trade.

On the 26th of March, 1804, this region was included in the "District of Louisiana," which embraced all of the Louisiana purchase north of the present State of this name, and west of the Mississippi river, and was placed temporarily under the jurisdiction of the Governor and Judges of Indiana Territory.

On the 3d of March, 1805, it was formed into a separate Territory, of the first grade, under a Governor and three Judges, who possessed legislative powers, and were appointed by the President and Senate.

On the 9th of June, 1812, upon the formation of the State of Louisiana, the name of this Territory was changed to *Missouri*, and a Territorial General Assembly, consisting of a Legislative Council and a House of Representatives, was authorized. The former was composed of nine members, appointed by the President and Senate, for five years, out of a list of eighteen nominated by the Representatives, and holding office five years. The Representatives were elected for two years, and were at first thirteen in number, but their number might be increased with the growth of population, one being allowed for every five hundred free white males, until their number amounted to twenty-five, after which their number and proportion was to be fixed by the General Assembly. The Territory was entitled to one Delegate in Congress.

On the 29th of April, 1816, the people were allowed to elect one member of the Legislative Council from each county for a term of two years, the sessions of the General Assembly were changed from annual to biennial, and the place of their meeting was fixed at St. Louis.

Petitions from sundry inhabitants for the admission of Missouri as a State, were presented in Congress March 16, 1818, which were referred to a select committee, and on the 3d of April, this committee reported a bill embodying the views of the petitioners, but made no progress beyond reference to the Committee of the Whole, during that session. A petition from the Territorial Legislature, asking for a State government, was received in Congress December 18, 1818, which was referred to the Committee on Territories. On the 13th of February, 1819, the House went into Committee of the Whole and took up the bill upon this subject, and several amendments were adopted on the 15th, the most important of which, moved by General James Tallmadge, of New York, was as follows:

"And provided, also, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted; and that all children of slaves, born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years."

This amendment was adopted by a vote of 87 to 76, upon that part ending with the word "convicted," and upon the residue, by a vote of 82 to 78. In this form it was referred back to the House, and on a third reading it passed, as amended, by a vote of 98 to 56.

In the Senate, the latter part of the amendment was stricken out, by a vote of 27 to 7, and on the remainder, the vote for striking out was 22 to 16. Upon being referred back to the House, they refused to concur, by a vote of 69 to 74, and so the bill was lost.

The southern part of Missouri Territory, not included in the proposed State, was erected, March 2, 1819, into the "Territory of Arkansas." While this bill was under consideration, Mr. Taylor, of New York, moved that an amendment be added permitting slaves born therein to be free at the age of twenty-five, which was carried (Feb. 17th) by a vote of 75 to 73, but the next day it was repealed, and the bill passed without any allusion to slavery.

A memorial of the Missouri Territorial Legislature was again presented in the Senate, December 29, 1819, and during the discussions upon the bill introduced at this session the subject of slavery-restriction enlisted the energies of both parties, both in and out of Congress, and led to the most vehement and earnest debates. The Legislatures of New York, New Jersey, Delaware, Indiana and Pennsylvania passed resolves in favor of restriction, and those of Virginia, Maryland and Kentucky against it. An attempt was made to associate the question of the admission of Maine with that of Missouri, so as to render the success of the former dependent upon the admission of the latter without restrictions.

At length the following amendment was introduced, February 17th, by Mr. Thomas, of Illinois, and was finally adopted. It afterward became known as the "*Missouri Compromise*."

"*And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, slavery and involuntary servitude otherwise than in the punishment of crime whereof the party shall have been duly convicted, shall be and is hereby forever prohibited: *Provided always*, That any person escaping into the same, from where labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

This provision was finally sustained by a vote of 33 to 11 in the Senate, and of 134 to 42 in the House, and the bill allowing the inhabitants of Missouri to form a State government became a law March 6, 1820. The limits of the proposed State were to be: the Mississippi river on the east, the Territory of Arkansas on the south, a meridian passing through the middle of the Kansas river at its mouth on the west, and the Des Moines river, from its mouth up to a parallel of latitude passing through the rapids of that river, on the north.

An election of Delegates was held in May, 1820; the Convention met at St. Louis June 12th, and, on the 19th of July, agreed upon a Constitution and an ordinance consenting to the conditions of the act of Congress of March 6, 1820. This Constitution was duly ratified by the people.

A joint resolution of Congress was approved March 2, 1821, providing for the admission of Missouri, upon condition that the Legislature of that State should, by a solemn public act, declare its assent to a stipulation that the Constitution should never be construed to authorize the passage of any law by which any citizen of either of the States shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States, under the following clause of Section 26, Article III, viz.: "The General Assembly . . . shall have power to pass laws; . . . 4. To permit the owner of slaves to emancipate them, saving the right of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge."

This condition was accepted June 26, 1821, and on the 10th of August, 1821, the President issued a proclamation declaring her admission as a State complete, according to law.

On the 16th of March, 1822, an act was passed to provide for the due execution of the laws of the United States within the State of Missouri.

As first established, the State was bounded on the west by a meridian passing through the mouth of the Kansas river. An act was approved June 7, 1837, extending the boundary to the Missouri river, north of its intersection with this line, whenever the Indian title to this portion should be extinguished, and the State express its assent to the change. The Indian title was extinguished by a treaty with the Ioways, Sacs and Foxes, concluded at Fort Leavenworth, September 17, 1836, and ratified February 15, 1837. This addition, known as the "Platte Purchase," was sanctioned by the State December 16, 1836, and was declared perfected by a proclamation of the President, March 23, 1837.

The question of revising the Constitution of Missouri came under discussion in 1844, and at an election held in October of that year, three-fourths of the voters approved of a Convention. Delegates were accordingly chosen, and a Convention assembled in Jefferson city on the 17th of November, 1845, and adjourned on the 14th of January, 1846. The results of their labors were submitted to the people on the 3d of August, 1846, and were rejected by a vote of 25,215 to 33,675.

The boundary line between Missouri and Arkansas was confirmed by an act of Congress, approved on the 15th of February, 1848. On the north, the boundary was many years in controversy with Iowa, and several acts were passed by Congress for its survey, but without acceptance by the States concerned. The question was finally referred, on the 4th of August, 1846, to the Supreme Court of the United States, and was settled by them at the January Term in 1849. A survey was ordered in accordance with the decision of this court, and the line, thus ascertained and marked, was confirmed by this authority in December 1850.¹

No further call for a Convention to amend the Constitution of Missouri was made until 1861, although changes were introduced by the Legislature, in the manner provided in the Constitution, in 1822, 1834-5, 1848-9, 1851-2, 1852-3, 1854-5, and 1860-1.

When the war of the rebellion began, the Governor of Missouri (C. F. Jackson) proved to be in sympathy with secession, and a strong effort was made to carry this State with the South. The Legislature voted, on the 16th of January, 1861, to call a Convention, which was elected, and met on the 28th of February, 1861; but that body proved to be in favor of remaining in the Federal Union, and refused to secede therefrom. It remained in existence by adjournments until the 1st of July, 1863. In October, a remnant of the Legislature who adhered to the fortunes of the rebellion, were assembled by Governor Jackson at Neosho, and went through the farce of secession. The Constitutional quorum of the Legislature was 67 members in the House and 17 in the Senate; but at the session at Neosho, there were present but 35 of the former, and 10 of the latter. A few days after they were joined by five other members and one Senator, which was the nearest approach made to a quorum in either House.

Nevertheless, persons claiming to have been elected, appeared to represent Missouri in the Confederate Congress in December, 1861, and the shadow of a State government in sympathy with the rebellion, continued for some time after.

The question of holding a Convention was submitted to the people early in 1864, and approved by a vote of 63,504 to 25,711. An act was accordingly passed on the 13th of February, 1864, for the choice of Delegates at the next November

¹ *Missouri v. Iowa*, 7 How. (U. S.) 660; 10 id. 1.

election, to meet on the 6th of January, 1865, to consider, first, such amendments as might be deemed necessary in reference to emancipation; and, secondly, as to such measures as might be found proper to preserve the purity of the franchise to loyal citizens. They were also authorized to offer such other amendments as might be deemed necessary for the public good.

This Convention met at St. Louis on the 6th of January, 1865, and completed their labors on the 10th of April of that year. The Convention consisted of 65 members, of whom 39 signed the Constitution, 13 voted *no*, 6 were absent on leave, 5 absent without leave, and 2 were absent from sickness, when the vote was taken.

The Constitution was ratified by the people at an election held on the 6th of June, 1865, by a vote of 43,670 to 41,808, and was proclaimed by Governor Fletcher on the 1st of July, as adopted and in force on and after the 4th of July, 1865.

Important amendments to the Constitution of this State were ratified at the general election held on the 8th of November, 1870, and are noticed in their proper connection in the following pages. An early revision of the Constitution by another Convention is highly probable.

CONSTITUTION OF MISSOURI, 1865.

SUMMARY.

ARTICLES.

- I. Declaration of Rights.
 - II. Right of Suffrage. [Amendment of 1870.]
 - III. Distribution of Powers.
 - IV. Legislative Department.
 - V. Executive Department.
 - VI. Judicial Department.
 - VII. Impeachments.
 - VIII. Banks and Corporations.
 - IX. Education.
 - X. Militia.
 - XI. Miscellaneous Provisions.
 - XII. Mode of Amending and Revising the Constitution.
 - XIII. Provisions for Putting this Constitution into Force.
- Ordinance.

PREAMBLE.

ARTICLE I. — Declaration of Rights.

SECTIONS.

1. All men by nature equal — inalienable rights.
2. Slavery forbidden.
3. No disability as witnesses or otherwise on account of race or color — equal personal rights.
4. Political power derived from people — object of government.
5. Right to regulate and alter government — to be consistent with Constitution of United States.
6. State a member of American Union — right of secession denied.
7. Paramount allegiance due to Constitution and Government of the United States.
8. Right of assembling and petitioning — of bearing arms.
9. Religious freedom.
10. No one to be compelled to support worship — contracts for such object binding.
11. No preference to be given to any sect.
12. Religious corporations — their right to hold property limited.
13. Devises to religious teachers or sects void — exception in case of trusts.
14. Elections to be free and open.
15. Right of justice.
16. Private property not to be taken for public use without compensation.
17. Right of trial by jury.
18. Rights of persons accused of crime.
19. Second trials forbidden — exceptions.
20. Right of bail.
21. Excessive bail or fines — cruel punishments.
22. Privilege of writ of *habeas corpus*.
23. Security against unlawful seizures and searches.
24. Prosecution by indictment.
25. Treason defined.
26. Attainders by General Assembly forbidden — forfeitures limited.
27. Freedom of speech and of the press — trials for libel.
28. *Ex post facto* laws — obligation of contracts.
29. Imprisonment for debt.
30. Property to be taxed in proportion to its value.
31. Titles and hereditary distinctions forbidden.

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32. Subordination of military to civil power — quartering of soldiers — support of armies.

ARTICLE II. — Right of Suffrage.

1. Elections to be by ballot — to be held in one day.
2. Elections biennial — when held — first — when may be changed — not to be held on a Monday.
3. Disqualification from rebellion. [*Modified by amendment.*]
4. Registration of voters.
5. Oaths of persons registered. [*Stricken out.*]
6. Oath of loyalty. [*Modified by amendments.*]
7. } Restrictions upon the holding office.
8. } [*Stricken out.*]
9. }
10. }
11. Oath of jurors. [*Stricken out.*]
12. Affirmation may be taken in place of oath.
13. } Oath of office — penalties for not taking
14. } certain oath. [*Stricken out.*]
15. }
16. } Classes disqualified — qualifications of
17. } voters. [*Stricken out.*]
18. }
19. Literary qualifications may be required after 1876.
20. Right not lost by absence on business of United States or State, etc.
21. Voting by persons in volunteer service.
22. Privilege of voters.
23. Right lost by disloyalty recovered by military service — proceedings.
24. Such persons to take oath of loyalty — may hold office.
25. After 1871 restriction may be removed.
26. Exclusion from office and right of suffrage by crime.

Amendments to Article II.

RIGHT OF SUFFRAGE.

1. Qualifications of electors.
2. Oath of persons registered.
3. Sections stricken out.

RIGHT OF HOLDING OFFICE, ETC.

1. Exclusion on account of disloyalty removed — oath of office.
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ARTICLE III. — Distribution of Powers.

ARTICLE IV. — Legislative Department.

1. Legislative power — how vested.
2. House of Representatives — how composed — ratio — districts.
3. Qualifications of members.
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5. Qualifications of Senators.
6. Apportionment of Senators.
7. Re-apportionment from National census — census in 1876, and once in ten years after.
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9. First elections.
10. Classification of Senators.
11. Members of Congress and persons holding office under United States not eligible.
12. Non-accounting holders of public moneys not eligible.
13. Removal from district to vacate seat.
14. Vacancies, how filled.
15. Members and Senators not to hold other office.
16. Privilege of members—freedom of legislative debate.
17. Pay of members—mileage.
18. Quorum—power to compel attendance.
19. Officers—to judge of qualification—punishment of members and others.
20. Journals—yeas and nays—right of protest.
21. To sit with open doors.
22. Adjournments limited.
23. Origin and passage of bills—to be signed by officers.
24. Final passage—yeas and nays.
25. Laws not to be revived or amended by title—to recite the whole act.
26. Style of laws.
27. Special laws on certain subjects forbidden.
28. Lotteries forbidden.
29. Compensation not to be allowed for emancipated slaves.
30. Removal of county seats—no indemnity for real estate, etc., allowed.
31. New counties—least area.
32. Laws to relate to but one subject—to be expressed in title.
33. Suits against the State.
34. Appointments by joint vote to be *visa voce*.
35. First meeting in 1867, and biennially after.

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5. Commander-in-chief.
6. Pardoning power—report of pardons—to take care that laws are executed—conservator of the peace.
7. To communicate by message—may convene the General Assembly.
8. To fill vacancies in office.
9. Veto power—limited.
10. To sign concurrent resolutions.
11. Salary.
12. Lieutenant-Governor to be elected.
13. President of Senate—may debate in committee of the whole—casting vote.
14. When to act as Governor—case of absence of Governor and Lieutenant-Governor.
15. Pay of President of Senate.
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17. Returns of elections of State officers.
18. Contested elections of Governor and Lieutenant-Governor.
19. Contested elections of other State officers.
20. Secretary of State keeper of the seal—great seal—emblems not subject to change.
21. Duties of Secretary of State.
22. Sheriffs—coroners.
23. Vacancies in office of sheriff and coroners.
24. Case of equal vote—contested elections.
25. Governor to commission officers—how sealed and attested.
26. Officers not otherwise provided for to be appointed as prescribed by law.

ARTICLE VI.—Judicial Department.

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2. Jurisdiction of Supreme Court.
3. General control—special powers.

SECTIONS.

4. How composed—quorum—Judges to be conservators of the peace.
5. Districts—terms of Supreme Court to be held in each.
6. Term of Judges.
7. Election of Judges—classification—Presiding Judge.
8. Vacancies, how filled.
9. Case of equal vote for candidates.
10. Case of equal division of court—Special Judge.
11. Judges to give opinions upon solemn occasions—to be published.
12. Appeals—writs of error.
13. Jurisdiction of Circuit Courts.
14. Circuits to be formed—Judges—duties—terms—elections—vacancies.
15. Judges in St. Louis Circuit—special provisions.
16. Provisions as to vacancies, to apply after 1868—Governor to fill until then.
17. Temporary vacancies, how filled.
18. Qualification of Judges.
19. Removal of Judges.
20. Salaries of Judges.
21. Power of Circuit Court over inferior tribunals.
22. Clerks of Supreme and District Courts—of other courts—term—election.
23. County courts—jurisdiction.
24. No clerk to apply fees to his own use beyond \$2,500—laws to be passed to carry this into effect.
25. Justices of the Peace.
26. Style of writs and process—ending of indictments.

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1. Officers liable to impeachment.
2. Power vested in House—to be tried by Senate—oath—limit of judgment.

ARTICLE VIII.—Banks and Corporations.

1. Banks not to be created—no individuals or corporations to issue paper as money.
2. Laws not to revive any act creating corporations one year after failing to organize.
3. Laws to enable existing banks to reorganize as national banks.
4. Corporations to be formed under general laws—special laws for municipal corporations only—such laws may be amended or repealed.
5. Municipal corporations, except cities, to be under general laws—no city of less than 5,000 inhabitants—vote.
6. Dues from corporations—liability of stockholders.

ARTICLE IX.—Education.

1. Free schools to be established.
2. Separate schools for children of African descent—moneys to be apportioned.
3. Board of Education—Superintendent of Public Instruction—terms—duties—*ex officio* members of Boards.
4. State University.
5. Sources of public school fund—income to be applied for free schools and University.
6. Investment of fund—conversion of stock now held.
7. School moneys, when to be withheld—power to enact law compelling attendance.
8. Tax to meet deficiencies in fund.
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2. Concurrent jurisdiction on rivers forming boundary — navigable rivers public highways.
3. Laws continued until they expire or are repealed — continuance of writs — prosecutions — actions, etc.
4. Limitation of civil actions and criminal proceedings for acts done under military authority of United States.
5. Dueling to disqualify from holding office.
6. No money to be drawn from treasury but by law — statements of receipts and expenditures.
7. Persons holding office under United States not to hold State offices.
8. Officers to hold until successors are qualified.
9. Power to repeal former ordinances.
10. Seat of government to remain at city of Jefferson.
11. Persons emancipated not to be apprenticed or bound to service, except by special law.
12. Change of venue.
13. State credit not to be given or loaned — not to become a stockholder.
14. No county, city or town to become a stockholder to a company, unless by two-third vote.
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ARTICLE XII. — *Mode of amending and revising the Constitution.*

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1. Constitution may be amended.
2. Amendments, how made and ratified.
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ARTICLE XIII. — *Provisions for putting this Constitution into force.*

1. Not to take effect until ratified at an election.
2. An election appointed — proceedings regulated.
3. To be by ballot — form of ballot.
4. Returns, how made.
5. Votes, when allowed away from residence.
6. Oath of voters.
7. Canvass and publication of returns.
8. Auditor of Public Accounts to be styled State Auditor.
9. Office of Register of Lands continued.

ORDINANCE

For the payment of State and railroad indebtedness.

1. Tax imposed on gross receipts of certain railroads — how assessed — how applied.
 2. Tax on certain other railroads — object to which applied.
 3. Limit of tax — to cease when bonds are paid.
 4. Case of refusal or neglect to pay tax.
 5. Case of sale of roads — not to be restored until debt is paid — lien to be reserved.
 6. Payment of State indebtedness — tax of one quarter of one per cent.
 7. Election appointed upon this ordinance — form of ballot — result to be proclaimed by Governor.
- List of other ordinances passed by Convention.

PREAMBLE.

We, the people of the State of Missouri, grateful to Almighty God, the Sovereign Ruler of Nations, for our State Government, our liberties, and our connection with the American Union, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this State, ordain and establish this revised and amended Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States, and those of the people of this State, to the rest of the American people, may be defined and affirmed, we do declare:

1. That we hold it to be self-evident that all men are endowed by their Creator with certain inalienable rights, among which are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

2. That there cannot be in this State either slavery or involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted.

3. That no person can, on account of color, be disqualified as a witness; or be disabled to contract, otherwise than as others are disabled; or be prevented from acquiring, holding and transmitting property; or be liable to any other punishment for any offense than that imposed upon others for a like offense; or be restricted in the exercise of religious worship; or be hindered in acquiring education; or be subjected, in law, to any other restraints or disqualifications, in regard to any personal rights, than such as are laid upon others under like circumstances.

4. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

5. That the people of this State have the inherent, sole and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States.

6. That this State shall ever remain a member of the American Union; that the people thereof are a part of the American nation; and that all attempts, from whatever source, or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State.

7. That every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and that no law or ordinance of this State, in contravention or subversion thereof, can have any binding force.

8. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances by petition or remonstrance; and that their right to bear arms in defense of themselves, and of the lawful authority of the State, cannot be questioned.

9. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; and that no person ought, by any law, to be molested in his person or

estate, on account of his religious persuasion or profession ; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of the State, or with the rights of others.

10. That no person can be compelled to erect, support, or attend any place of worship, or maintain any minister of the Gospel or teacher of religion ; but whatever contracts any person may enter into for any such object ought, in law, to be binding and capable of enforcement, as other contracts.

11. That no preference can ever be given, by law, to any church, sect, or mode of worship.

12. That no religious corporation can be established in this State, except that by a general law, uniform throughout the State, any church or religious society, or congregation, may become a body corporate, for the sole purpose of acquiring, holding, using, and disposing of so much land as may be required for a house of public worship, a chapel, a parsonage, and a burial ground, and managing the same, and contracting in relation to such land, and the buildings thereon, through a Board of Trustees, selected by themselves ; but the quantity of land to be held by any such body corporate, in connection with a house of worship or a parsonage, shall not exceed five acres in the country, or one acre in a town or city.

13. That every gift, sale, or devise of land to any minister, public teacher, or preacher of the Gospel, as such, or to any religious sect, order, or denomination ; or to or for the support, use or benefit of, or in trust for, any minister, public teacher, or preacher of the Gospel, as such ; or any religious sect, order, or denomination ; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit ; and also every devise of goods or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the Gospel, as such, or any religious sect, order, or denomination, shall be void ; except always any gift, sale, or devise of land to a church, religious society or congregation, or to any person or persons in trust, for the use of a church, religious society, or congregation, whether incorporated or not, for the uses and purposes, and within the limitations, of the next preceding clause of this article.

14. That all elections ought to be free and open.

15. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character ; and that right and justice ought to be administered without sale, denial or delay.

16. That no private property ought to be taken or applied to public use, without just compensation.

17. That the right of trial by jury shall remain inviolate.

18. That in all criminal prosecutions the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusation; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence against himself, nor be deprived of life, liberty, or property, but by the judgment of his peers, or the law of the land.

19. That no person, after having been once acquitted by a jury, can, for the same offense, be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of said court.

20. That all persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

21. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

22. That the privilege of the writ of *habeas corpus* cannot be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

23. That the people ought to be secure in their persons, papers, houses and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, can issue, without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation.

24. That no person can, for an indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in the time of war or public danger, or by leave of court, for oppression or misdemeanor in office.

25. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort.

26. That no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood; that there can be no forfeiture of estate for any crime, except treason; and that the estates of such persons as may destroy their own lives shall descend or vest, as in cases of natural death.

27. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty; that in all prosecutions for libel, the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

28. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, can be passed.

29. That imprisonment for debt cannot exist in this State, except for fines or penalties imposed for violation of law.

30. That all property subject to taxation ought to be taxed in proportion to its value.

31. That no title of nobility, or hereditary emolument, privilege or distinction, can be granted.

32. That the military is, and in all cases and at all times ought to be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in such manner as may be prescribed by law; nor can any appropriation for the support of an army be made for a longer period than two years.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. All elections by the people shall be by ballot. No election shall continue longer than one day, except as provided in the twenty-first section of this article.

§ 2. General elections shall be held biennially, on the Tuesday next after the first Monday in November. The first general election under this Constitution shall be held on that day, in the year one thousand eight hundred and sixty-six. Should Congress direct the appointment of electors of President and Vice-President of the United States on any other day than that now established, the General Assembly may change the time of holding general elections, so as to provide for holding them on the day which may be designated by Congress for that purpose, and on the corresponding day two years thereafter. No special election, State, county, or municipal, shall be appointed to be held on a Monday.

§ 3.¹ At any election held by the people under this Constitution, or in pursuance of any law of this State, or under any ordinance or by-law of any municipal corporation, no person shall be deemed a

¹ The clauses of this section marked in brackets, were affected by a decision of the Supreme Court of the United States, made at the December Term, 1866, in the case *Cummings v. The State of Missouri* (Wallace's Reports, IV, 277-332). This section is also affected by the amendments of 1870.

qualified voter who [has ever been in armed hostility to the United States, or to the lawful authorities thereof,] or to the government of this State; or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility; or has ever, in any manner, adhered to the enemies, foreign or domestic, of the United States, either by contributing to them or by unlawfully sending within their lines, money, goods, letters, or information; or has ever disloyally held communication with such enemies; or has ever advised or aided any person to enter the service of such enemies; [or has ever, by act or word, manifested his adherence to the cause of such enemies, or his desire for their triumph] over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority, or been in the service, of the so-called "Confederate States of America;" or has ever left this State, and gone within the lines of the armies of the so-called "Confederate States of America," with the purpose of adhering to said States or armies; or has ever been a member of, or connected with, any order, society, or organization, inimical to the government of the United States, or to the government of this State; or has ever been engaged in guerilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as "bushwhacking;" or [has ever knowingly and willingly harbored, aided, or countenanced any person] so engaged; or [has ever come into or left this State, for the purpose of avoiding enrollment for or draft into the military service of the United States; or has ever, with a view to avoid enrollment in the militia of this State, or to escape the performance of duty therein,] or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer, as disloyal, or as a Southern sympathizer, [or in any other terms indicating his disaffection to the government of the United States,] in its contest with rebellion, or his sympathy with those engaged in such rebellion; or, having ever voted at any election by the people in this State, or in any other of the United States, or in any other of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State, or in the army of the United States; [nor shall any such person be capable of holding in this State any office of honor, trust or profit under its authority; or of being an officer, councilman,

director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority; or of acting as a professor or teacher in any educational institution, or in any common or other school; or of holding any real estate or other property in trust for the use of any church, religious society or congregation.] But the foregoing provisions in relation to acts done against the United States shall not apply to any person not a citizen thereof, who shall have committed such acts while in the service of some foreign country at war with the United States, and who has, since such acts, been naturalized, or may hereafter be naturalized, under the laws of the United States; and the oath of loyalty hereinafter prescribed, when taken by any such person, shall be considered as taken in such sense.

§ 4. The General Assembly shall immediately provide by law for a complete and uniform registration, by election districts, of the names of qualified voters in this State; which registration shall be evidence of the qualification of all registered voters to vote at any election thereafter held; but no person shall be excluded from voting at any election on account of not being registered, until the General Assembly shall have passed an act of registration, and the same shall have been carried into effect; after which, no person shall vote, unless his name shall have been registered at least ten days before the day of the election; and the fact of such registration shall be not otherwise shown than by the register, or an authentic copy thereof, certified to the judges of election by the registering officer, or other constituted authority. A new registration shall be made within sixty days next preceding the tenth day prior to every biennial general election; and after it shall have been made, no person shall establish his right to vote by the fact of his name appearing on any previous register.

§ 5. [Stricken out.]

§ 6. [The oath to be taken as aforesaid shall be known as the Oath of Loyalty, and shall be in the following terms:

¹ This section was stricken out by the fourth amendment; ratified in 1870 by a vote of 127,643 for to 16,288 against. The section was as follows:

"§ 5 Until such a system of registration shall have been established, every person shall, at the time of offering to vote, and before his vote shall be received, take an oath in the terms prescribed in the next succeeding section. After such a system shall have been established, the said oath shall be taken and subscribed by the voter at each time of his registration. Any person declining to take said oath shall not be allowed to vote, or to be registered as a qualified voter. The taking thereof shall not be deemed conclusive evidence of the right of the person to vote, or to be registered as a voter; but such right may, notwithstanding, be disproved. And, after a system of registration shall have been established, all evidence for and against the right of any person as a qualified voter, shall be heard and passed upon by the registering officer or officers, and not by the judges of election. The registering officer or officers shall keep a register of the names of persons rejected as voters, and the same shall be certified to the judges of election; and they shall receive the ballot of any such rejected voter offering to vote, marking the same and certifying the vote thereby given, as rejected; but no such vote shall be received, unless the party offering it take, at the time, the oath of loyalty hereinafter prescribed."

² By the second section of the fourth Constitutional Amendment ratified in 1870, the oath required before registration was to be thereafter dispensed with. This section is given at the end of Article II.

"I, A. B., do solemnly swear, that I am well acquainted with the terms of the third section of the second article of the Constitution of the State of Missouri, adopted in the year eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof, as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; that I will support the Constitution of the State of Missouri; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me."]

§§ 7, 8, 9, 10. [Stricken out.¹]

§ 11. [Stricken out.²]

§ 12. If any person shall declare that he has conscientious scruples against taking an oath, or swearing in any form, the said oath may be changed into a solemn affirmation, and be made by him in that form.

§§ 13, 14. [Stricken out.³]

¹ These sections were stricken out by the adoption of the fifth amendment of 1870, by a vote of the people, which gave 123,413 *for*, and 18,005 *against*, the amendment. The sections were as follows:

"§ 7. Within sixty days after this Constitution takes effect, every person in this State holding any office of honor, trust, or profit, under this Constitution, or laws thereof, or under any municipal corporation, or any of the other offices, positions, or trusts mentioned in the third section of this article, shall take and subscribe the said oath. If any officer or person referred to in this section shall fail to comply with the requirements thereof, his office, position, or trust shall, *ipso facto*, become vacant, and the vacancy shall be filled according to the law governing the case.

"§ 8. No vote in any election by the people shall be cast up for, nor shall any certificate of election be granted to, any person who shall not, within fifteen days next preceding such election, have taken, subscribed, and filed said oath.

"§ 9. No person shall assume the duties of any State, county, city, town, or other office, to which he may be appointed, otherwise than by a vote of the people; nor shall any person, after the expiration of sixty days after this Constitution takes effect, be permitted to practice as an attorney or counselor at law; nor, after that time, shall any person be competent as a bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect, or denomination, to teach or preach, or solemnize marriages, unless such person shall have first taken, subscribed, and filed said oath.

"§ 10. Oaths, taken in pursuance of the seventh, eighth and ninth sections of this article, shall be filed, as follows: By a State civil officer, or a candidate for a State civil office, and by members and officers of the present General Assembly, in the office of the Secretary of State; by a military officer in the office of the Adjutant-General; by a candidate for either House of the General Assembly, in the clerk's office of the County Court of the county of his residence, or in that of the county where the vote of the district is required by law to cast up, and the certificate of election granted; by a city or town officer, in the office where the archives of such city or town are kept; and in all other cases, in the office of the Clerk of the County Court of the county of the person's residence."

² This section was stricken out by the second amendment, ratified in 1870, by a majority of 122,883. It was as follows:

"§ 11. Every court in which any person shall be summoned to serve as a grand or petit juror, shall require him, before he is sworn as a juror, to take such oath, in open court; and no person refusing to take the same shall serve as a juror."

³ These sections were stricken out by the adoption of the fifth amendment, ratified in 1870, by a vote of 123,413 to 18,005. They were as follows:

"§ 13. In addition to the oath of loyalty aforesaid, every person who may be elected or appointed to any office, shall, before entering upon its duties, take and subscribe an oath or

§§ 15, 16, 17, 18. [Stricken out.¹]

§ 19. After the first day of January, one thousand eight hundred and seventy-six, every person who was not a qualified voter prior to that time shall, in addition to the other qualifications required, be able to read and write in order to become a qualified voter; unless his inability to read or write shall be the result of a physical disability.

§ 20. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas, nor while a student in any seminary of learning, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison.

§ 21. Any qualified voter under the eighteenth section of this article, who may be absent from the place of his residence, by reason of being in the volunteer army of the United States, or in the militia force of this State, in the service thereof, or of the United States, whether within or without the State, shall, without registration, be entitled to vote in any election occurring during such absence. The votes of all such persons, wherever they may be, may be taken on the day fixed by law for such election; or on any day or days within twenty days next prior thereto; and the General Assembly shall provide by law for the taking, return, and counting of such votes. Every such person shall take the same oath that all other voters may be required to take in order to vote.

affirmation that he will, to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the Constitution and laws of this State.

"§ 14. Whoever shall, after the times limited in the seventh and ninth sections of this article, hold or exercise any of the offices, positions, trusts, professions, or functions therein specified, without having taken, subscribed, and filed said oath of loyalty, shall, on conviction thereof, be punished by fine, not less than five hundred dollars, or by imprisonment in the county jail not less than six months, or by both such fine and imprisonment; and whoever shall take said oath falsely, by swearing or by affirmation, shall, on conviction thereof, be adjudged guilty of perjury, and be punished by imprisonment in the penitentiary not less than two years."

¹ These sections were stricken out by the adoption of the fourth amendment in 1870, by a vote of 127,643 to 16,288. They were as follows:

"§ 15. Whoever shall be convicted of having, directly or indirectly, given or offered any bribe, to procure his election or appointment to any office, shall be disqualified for any office of honor, trust, or profit, under this State; and whoever shall give or offer any bribe to procure the election or appointment of any other person to any office shall, on conviction thereof, be disqualified for a voter, or any office of honor, trust or profit under this State, for ten years after such conviction.

"§ 16. No officer, soldier, or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this State.

"§ 17. No person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, shall vote at such election.

"§ 18. Every white male citizen of the United States, and every white male person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who is not disqualified by or under any of the provisions of this Constitution, and who shall have complied with its requirements, and have resided in this State one year next preceding any election, or next preceding his resignation as a voter, and during the last sixty days of that period shall have resided in the county, city, or town where he offers to vote, or seeks registration as a voter, shall be entitled to vote at such election, for all officers, State, county, or municipal, made elective by the people; but he shall not vote elsewhere than in the election district of which he is at the time a resident, or, after a system of registration of votes shall have been established in the election district where his name is registered, except as provided in the twenty-first section of this article."

The question of amending the eighteenth section by striking out the word "white," was submitted to the people in November, 1868, and disapproved by a vote of 55,236 to 74,053.

§ 22. Voters shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their continuance at election, and in going to and returning from the same.

§ 23. Any person who may, at any time, have done any act which, under the third section of this article, has disqualified or may disqualify him, as therein expressed, and who shall, after the commission of such act, have voluntarily entered the military service of the United States, and have been honorably discharged therefrom, and after such discharge have demeaned himself in all respects as a loyal and faithful citizen, may be relieved from such disqualification. In order thereto, he shall, in person, present his petition to the Circuit Court of the county of his residence, stating specifically the act or acts which produced such disqualification, and the grounds upon which he prays to be relieved therefrom; and the court shall set a day for hearing the cause, not less than five days after the presentation of the petition; when, if it appear by competent proof that the petitioner is justly entitled to the relief prayed for, the court shall make a decree removing such disqualification. But any act done by such person after the date of such decree, which would impose a disqualification under said third section of this article, shall make such decree null and void, and remit him to his previous condition of disqualification; and no such decree shall be granted a second time in his favor.

§ 24. After any person shall have been so relieved by the decree of a Circuit Court, he shall, in order to vote, or hold any of the offices, positions, or trusts, or exercise any of the privileges or functions hereinbefore specified, take the oath of loyalty aforesaid, except the part thereof which refers to the third section of this article and to the past acts or loyalty of the person taking the oath.

§ 25. After the first day of January, one thousand eight hundred and seventy-one, and until the date hereinafter named, the General Assembly shall have power, if a majority of all the members elected to both Houses concur therein, to suspend or repeal any part of the third, fifth, and sixth sections of this article, so far as the same relate to the qualifications of voters, but no further. After the first day of January, one thousand eight hundred and seventy-five, the General Assembly may wholly suspend or repeal the third, fourth, fifth, sixth, eighth, ninth, tenth, eleventh and twelfth sections of this article, or any part thereof, if a like majority of both Houses concur therein. But no such suspension or repeal shall have the effect of dispensing with the taking, by every person elected or appointed to any office in this State, of so much of the oath of loyalty aforesaid as follows the word "domestic." On the passage of any bill suspending or repealing

any of said sections, or any part thereof, the votes of both Houses shall be taken by yeas and nays, and entered on the journals of the Houses, respectively. The General Assembly shall also have power, at any time, to remove any such suspension or repeal, and re-instate the provisions suspended or repealed, in full force and effect as a part of this Constitution. Every suspension or repeal, made in pursuance of this section, shall be general in its terms, and not in any case in favor of any named person; but the General Assembly may except from the benefit of such suspension or repeal, any person or class of persons it may see fit.

§ 26. The General Assembly shall provide for the exclusion from every office of honor, trust, or profit within this State, and from the right of suffrage, of any person convicted of bribery, perjury, or other infamous crime.

AMENDMENTS TO ARTICLE II, RATIFIED NOVEMBER
8, 1870, BY THE PEOPLE.¹

Fourth Amendment, concerning Right of Suffrage.

SECTION 1. Every male citizen of the United States, and every person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in this State one year next preceding his registration as a voter, and during the last sixty days of that period shall have resided in the county, city or town where he seeks registration as a voter, who is not convicted of bribery, perjury or other infamous crime, nor directly or indirectly interested in any bet or wager, depending upon the result of the election for which said registration is made, nor serving at the time of such registration in the regular army or navy of the United States, shall be entitled to vote at such election for all officers, State, county or municipal, made elective by the people, or any other election, held in pursuance of the laws of this State; but he shall not vote elsewhere than in the election district where his name is registered, except as provided in the twenty-first section of the second article of the Constitution. Any person who shall, after the adoption of this amendment, engage in any rebellion against this State or the United States, shall forever be disqualified from voting at any election.

§ 2. Hereafter it shall not be required of any person, before he is registered as a voter, or offers to vote, to take the oath of loyalty prescribed in the sixth section of the second article of the Constitu-

¹ The vote on this amendment was 127,443 for to 16,288 against.

tion; but every person, before he is registered as a qualified voter, shall take an oath to support the Constitution of the United States and of the State of Missouri.

§ 3. Sections five, fifteen, sixteen, seventeen, eighteen of the second article of the Constitution, and all provisions thereof, and all laws of this State, not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

Fifth Amendment, concerning Disqualification, on account of race, color, or previous condition of servitude, and on account of former acts of disloyalty.

SECTION 1. No person shall hereafter be disqualified from holding in this State any office of honor, trust or profit under its authority, or of being an officer, councilman, director, trustee or other manager of any corporation, public or private, now existing or hereafter established by its authority, or of acting as a professor or a teacher in any educational institution, or in any common or other school, or of holding any real estate or other property in trust for the use of any church, religious society or congregation, on account of race or color, or previous condition of servitude, nor on account of any of the provisions of the third section of the second article of the Constitution; nor shall hereafter any such person, before he enters upon the discharge of his said duties, be required to take the oath of loyalty prescribed in the sixth section of said article; but every person who may be elected or appointed to any office, shall, before entering upon its duties, take and subscribe an oath or affirmation, that he will support the Constitution of the United States and of the State of Missouri, and to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the Constitution and laws of this State.

§ 2. Sections seven, eight, nine, ten, thirteen, fourteen of the second article of the Constitution, and all provisions thereof, and all laws of this State, not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct Departments, each of which shall be confided to a separate magistracy; and no person charged with the exercise of powers properly belonging to one of those Departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

§ 2. The House of Representatives shall consist of members to be chosen, every second year, by the qualified voters of the several counties, and apportioned in the following manner:

The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of permanent inhabitants of the State by the number two hundred. Each county having one ratio, or less, shall be entitled to one Representative; each county having three times said ratio shall be entitled to two Representatives; each county having six times said ratio shall be entitled to three Representatives; and so on above that number, giving one additional member for every three additional ratios. When any county shall be entitled to more than one Representative, the County Court shall cause such county to be subdivided into as many compact and convenient districts as such county may be entitled to Representatives; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one Representative, who shall be a resident of such district.

§ 3. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-four years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State two years, and an inhabitant of the county which he may be chosen to represent one year next before the day of his election, if such county shall have been so long established; but if not, then of the county from which the same shall have been taken; and who shall not have paid a State and county tax.

§ 4. The Senate shall consist of thirty-four members, to be chosen by the qualified voters for four years; for the election of whom the State shall be divided into convenient districts.

§ 5. No person shall be a Senator who shall have not attained the age of thirty years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken; and who shall not have paid a State and county tax. When any county shall be entitled to more than one Senator, the County Court shall cause

such county to be subdivided into as many compact and convenient districts as such county may be entitled to Senators; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one Senator, who shall be a resident of such district.

§ 6. Senators shall be apportioned among their respective districts, as nearly as may be, according to the number of permanent inhabitants in each.

§ 7. Senators and Representatives shall be chosen according to the rule of apportionment established in this Constitution, until the next decennial census taken by the United States shall have been made, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census. In the year one thousand eight hundred and seventy-six, and every tenth year thereafter, there shall be taken, under the authority of this State, a census of the inhabitants thereof; and after every such census the apportionment of Senators and Representatives may be based thereon, until the next succeeding National census; after which it may be based upon the National census, until the next succeeding decennial State census; and so on, from time to time; the enumerations made by the United States and this State shall be used, as they respectively occur, as the basis of apportionment.

§ 8. Senatorial and Representative Districts may be altered, from time to time, as public convenience may require. When any Senatorial District shall be composed of two or more counties, they shall be contiguous.

§ 9. The first election of Senators and Representatives under this Constitution shall be held at the general election in the year one thousand eight hundred and sixty-six, when the whole number of Senators and Representatives shall be chosen.

§ 10. At the regular session of the General Assembly chosen at said election, the Senators shall be divided into two equal classes. Those elected from districts bearing odd numbers shall compose the first class, and those elected from districts bearing even numbers shall compose the second class. The seats of the first class shall be vacated at the end of the second year after the day of said election, and those of the second class at the end of the fourth year after that day; so that one-half of the Senators shall be chosen every second year. In districting any county for the election of Senators, the districts shall be numbered, so as to effectuate the division of Senators into classes, as required in this section.

§ 11. No member of Congress, or person holding any lucrative office under the United States or this State (militia officers, Justices

of the Peace, and Notaries Public excepted), shall be eligible to either House of the General Assembly, or shall remain a member thereof after having accepted any such office, or a seat in either House of Congress.

§ 12. No person who now is, or may hereafter be, a collector or holder of public money, or assistant or deputy of such collector or holder of public money, shall be eligible to either House of the General Assembly, until he shall have accounted for and paid all sums for which he may be accountable.

§ 13. If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

§ 14. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the General Assembly.

§ 15. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during his continuance in office as a Senator or Representative, except to such offices as shall be filled by elections of the people.

§ 16. Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either House, they shall not be questioned in any other place.

§ 17. The members of the General Assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law; but no law increasing such compensation shall take effect in favor of the members of the General Assembly by which the same shall have been passed.

§ 18. A majority of the whole number of members of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House may provide.

§ 19. Each House shall appoint its own officers; shall judge of the qualifications, elections, and returns of its own members; may determine the rules of its proceedings; may arrest and punish, by fine, not exceeding three hundred dollars, or by imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the House, by any disorderly or contemptuous behavior in its presence, during its session; may punish

its members for disorderly behavior; and, with the concurrence of two-thirds of all the members elected, may expel a member; but no member shall be expelled a second time for the same cause.

§ 20. Each House shall, from time to time, publish a journal of its proceedings, except such parts thereof as may, in its opinion, require secrecy; and the yeas and nays on any question shall be taken and entered on the journal, at the desire of any two members. Whenever the yeas and nays are demanded the whole list of members shall be called, and the names of absentees shall be noted and published with the journal.

§ 21. The sessions of each House shall be held with open doors, except in cases which may require secrecy.

§ 22. Neither House shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two Houses may be sitting.

§ 23. Bills may originate in either House, and may be altered, amended or rejected by the other; and every bill shall be read on three different days in each House, unless two-thirds of the House, where the same is pending, shall dispense with this rule; and every bill, having passed both Houses, shall be signed by the Speaker of the House of Representatives, and by the President of the Senate.

§ 24. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly; and the question upon the final passage shall be taken immediately upon the last reading; and the yeas and nays shall be taken thereon and entered upon the journal.

§ 25. No act shall be revived or re-enacted by mere reference to the title thereof; nor shall any act be amended by providing that designated words thereof shall be struck out, or that designated words shall be struck out and others inserted in lieu thereof; but in every such case the act revived or re-enacted, or the act, or part of act, amended, shall be set forth and published at length, as if it were an original act or provision.

§ 26. The style of the laws of this State shall be: "*Be it enacted by the General Assembly of the State of Missouri as follows.*"

§ 27. The General Assembly shall not pass special laws divorcing any named parties; or declaring any named person of age; or authorizing any named minor to sell, lease or incumber his or her property; or providing for the sale of the real estate of any named minor or other person, laboring under legal disability, by any executor, administrator, guardian, trustee, or other person; or changing the name of any person; or establishing, locating, altering the course, or affecting the construction of roads, or the building or repairing of bridges; or

establishing, altering or vacating any street, avenue or alley in any city or town; or extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or elector of taxes from the due performance of his official duties; or giving effect to informal or invalid wills or deeds; or legalizing, except as against the State, the unauthorized or invalid acts of any officer; or granting to any individual or company the right to lay down railroad tracks in the streets of any city or town; or exempting any property of any named person or corporation from taxation. The General Assembly shall pass no special law for any case for which provision can be made by a general law; but shall pass general laws providing, so far as it may deem necessary, for the cases enumerated in this section, and for all other cases where a general law can be made applicable.

§ 28. The General Assembly shall never authorize any lottery; nor shall the sale of lottery tickets be allowed; nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

§ 29. The General Assembly shall have no power to make compensation for emancipated slaves.

§ 30. The General Assembly shall have no power to remove the county seat of any county unless two-thirds of the qualified voters of the county, at a general election, shall vote in favor of such removal. No compensation or indemnity for real estate, or the improvements thereon, affected by such removal, shall be allowed.

§ 31. The General Assembly shall have no power to establish any new county with a territory of less than five hundred square miles, or with a population less than the ratio of representation existing at the time; nor to reduce any county now established to less than that area, or to less population than such ratio.

§ 32. No law, enacted by the General Assembly, shall relate to more than one subject, and that shall be expressed in the title; but if any subject embraced in an act be not expressed in the title, such act shall be void only as to so much thereof as is not so expressed.

§ 33. The General Assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the State.

§ 34. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both Houses, or by the separate vote of either House, the vote shall be publicly given *viva voce*, and entered on the journals.

§ 35. The General Assembly, elected in the year one thousand eight hundred and sixty-six, shall meet on the first Wednesday of January, one thousand eight hundred and sixty-seven; and thereafter the General Assembly shall meet, in regular session, once in every two

years; and such meeting shall be on the first Wednesday of January, unless a different day be fixed by law.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme Executive power shall be vested in a Chief Magistrate, who shall be styled "*The Governor of the State of Missouri.*"

§ 2. The Governor shall be at least thirty-five years old, a white male citizen of the United States ten years, and a resident of this State seven years next before his election.

§ 3. The Governor elected at the general election in the year one thousand eight hundred and sixty-eight, and each Governor thereafter elected, shall hold his office two years, and until a successor be duly elected and qualified. At the time and place of voting for members of the House of Representatives, the qualified voters shall vote for a Governor; and when two or more persons shall have an equal number of votes, and a higher number than any other person, the election shall be decided between them by a joint ballot of both Houses of the General Assembly at their next session.

§ 4. The Governor shall not be eligible to office more than four years in six.

§ 5. The Governor shall be Commander-in-Chief of the militia of this State, except when they shall be called into the service of the United States; but he need not command in person, unless advised to do so by a resolution of the General Assembly.

§ 6. The Governor shall have the power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve, and the reasons for granting the same. He shall take care that the laws be distributed and faithfully executed; and shall be a conservator of peace throughout the State.

§ 7. The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may

convene the General Assembly by proclamation; wherein he shall state specifically each matter concerning which the action of that body is deemed necessary; and the General Assembly shall have no power, when so convened, to act upon any subject not so stated in the proclamation.

§ 8. When any office shall become vacant, the Governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall be duly elected or appointed, and qualified, according to law.

§ 9. Every bill which shall have been passed by both Houses of the General Assembly, before it becomes a law, shall be presented to the Governor for his approbation. If he approve, he shall sign it; if not, he shall return it, with his objections, to the House in which it shall have originated; and the House shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. After such reconsideration, if a majority of all the members elected to that House shall agree to pass the same, it shall be sent, together with the objections, to the other House, by which it shall, in like manner, be reconsidered; and if approved by a majority of all the members elected to that House, it shall become a law. In all such cases, the votes of both such Houses shall be taken by *yeas* and *nays*, and the names of the members voting for and against the bill shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if the Governor had signed it, unless the General Assembly, by its adjournment, shall prevent its return; in which case it shall not become a law, unless the Governor, after such adjournment, and within ten days after the bill was presented to him (Sundays excepted) shall sign and deposit the same in the office of the Secretary of State; in which case it shall become a law, in like manner as if it had been signed by him during the session of the General Assembly.

§ 10. Every resolution, to which the concurrence of the Senate and House of Representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this Constitution, shall be presented to the Governor; and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

§ 11. The Governor shall, at stated times, receive for his services an adequate salary, to be fixed by law; which shall neither be increased nor diminished during his continuance in office.

§ 12. There shall be a Lieutenant-Governor, who shall be elected at the same time, in the same manner, for the same term, and shall possess the same qualifications, as the Governor.

§ 13. The Lieutenant-Governor, by virtue of his office, shall be President of the Senate. In Committee of the Whole, he may debate on all questions; and when there is an equal division, shall give the casting vote in the Senate, and also in joint vote of both Houses.

§ 14. When the office of Governor shall become vacant, by death, resignation, removal from the State, removal from office, refusal to qualify, or otherwise, the Lieutenant-Governor shall perform the duties, possess the powers, and receive the compensation of the Governor, during the remainder of the term for which the Governor was elected. When the Governor is absent from the State, or is unable, from sickness, to perform his duties, or is under impeachment, the Lieutenant-Governor shall perform said duties, possess said powers, and receive said compensation, until the Governor return to the State, be enabled to resume his duties, or be acquitted. If there be no Lieutenant-Governor, or if he be absent from the State, disabled by sickness, or under impeachment, the President of the Senate *pro tempore*, or, in case of like absence or disability on his part, or of there being no President of the Senate *pro tempore*, the Speaker of the House of Representatives shall assume the office of Governor, in the same manner, and with the same powers and compensation, as are prescribed in the case of the office devolving on the Lieutenant-Governor.

§ 15. The Lieutenant-Governor, or the President of the Senate *pro tempore*, while presiding in the Senate, shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

§ 16. There shall be a Secretary of State, a State Auditor, a State Treasurer, and an Attorney-General, who shall be elected by the qualified voters of the State, at the same time, in the same manner, and for the same term of office as the Governor. No person shall be eligible to either of said offices, unless he be a white male citizen of the United States, and at least twenty-five years old, and shall have resided in this State five years next before his election. The Secretary of State, the State Auditor, the State Treasurer, and the Attorney-General, shall keep their respective offices at the seat of government, and shall perform such duties as may be required of them by law.

§ 17. The returns of all elections of Governor, Lieutenant-Governor, and other State officers, shall be made to the Secretary of State in such manner as may be prescribed by law.

§ 18. Contested elections of Governor and Lieutenant-Governor shall be decided by joint vote of both Houses of the General Assembly in such manner as may be prescribed by law.

§ 19. Contested elections of Secretary of State, State Auditor, State Treasurer, and Attorney-General, shall be decided before such tribunal, and in such manner as may be by law provided.

§ 20. The Secretary of State shall be the custodian of the Seal of State, and shall authenticate therewith all official acts of the Governor, his approbation of laws excepted. The said Seal shall be called the "*Great Seal of the State of Missouri*;" and the emblems and devices thereof heretofore prescribed by law shall not be subject to change.¹

§ 21. The Secretary of State shall keep a register of the official acts of the Governor, and, when necessary, shall attest them; and shall lay copies of the same, together with copies of all papers relating thereto, before either House of the General Assembly, whenever required to do so.

§ 22. There shall be elected by the qualified voters in each county, at the time and places of electing Representatives, a Sheriff and a Coroner. They shall serve for two years, and until a successor be duly elected and qualified, unless sooner removed for malfeasance in office, and shall be ineligible four years in any period of eight years. Before entering on the duties of their office they shall give security in such amount, and in such manner, as shall be prescribed by law. Whenever a county shall be hereafter established, the Governor shall appoint a Sheriff and a Coroner therein, who shall continue in office until the next succeeding general election, and until a successor shall be duly elected and qualified.

§ 23. Whenever a vacancy shall happen in the office of Sheriff or Coroner, the same shall be filled by the County Court. If such vacancy happen in the office of Sheriff more than nine months prior to the time of holding a general election, such County Court shall immediately order a special election to fill the same; and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise the person appointed by such County Court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of Coroner, the same shall be filled, for the remainder of the term, by such County Court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

¹ The great seal of Missouri was established by law, January 11, 1822.

§ 24. In all elections for Sheriff and Coroner, when two or more persons have an equal number of votes, and a higher than any other person, the presiding Judge of the County Court of the county shall give the casting vote; and all contested elections for the said offices shall be decided by the Circuit Court of the proper county, in such manner as the General Assembly may by law prescribe.

§ 25. The Governor shall commission all officers not otherwise provided by law. All commissions shall run in the name and by the authority of the State of Missouri, be sealed by the State seal, signed by the Governor, and attested by the Secretary of State.

§ 26. The appointment of all officers, not otherwise directed by this Constitution, shall be made in such manner as may be prescribed by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power, as to matters of law and equity, shall be vested in a Supreme Court,¹ in Circuit Courts, and in such inferior tribunals as the General Assembly may from time to time establish.

§ 2. The Supreme Court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under the restrictions and limitations in this Constitution provided.

§ 3. The Supreme Court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

§ 4. The Supreme Court shall consist of three Judges, any two of whom shall be a quorum; and the said Judges shall be conservators of the peace throughout the State.

§ 5. The State shall be divided into convenient districts, not to exceed four, in each of which the Supreme Court shall be held, at such time and place as the General Assembly may appoint; and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only; but the General Assembly may direct by law that the said court shall be held in one place only.

§ 6. The Judges of the Supreme Court shall hold office for the term of six years, and until their successors shall be duly elected and qualified, except as hereinafter provided.

¹ The words "District Courts" stricken out at this place by the first amendment, adopted in 1870.

§ 7. At the general election in the year one thousand eight hundred and sixty-eight, all the Judges of the Supreme Court shall be elected by the qualified voters of the State, and shall enter upon their office on the first Monday of January next ensuing. At the first session of the court thereafter the Judges shall, by lot, determine the duration of their several terms of office, which shall be respectively two, four and six years; and shall certify the result to the Secretary of State. At the general election every two years after said first election, one Judge of said court shall be elected, to hold office for the period of six years from the first Monday of January next ensuing. The Judge having at any time the shortest term to serve shall be the presiding Judge of the court.

§ 8. If a vacancy shall happen in the office of any Judge of the Supreme Court, by death, resignation, removal out of the State, or other disqualification, the Governor shall appoint a suitable person to fill the vacancy until the next general election occurring more than three months after the happening of such vacancy, when the same shall be filled by election, by the qualified voters of the State, for the residue of the term.

§ 9. In case of a tie, or a contested election between the candidates, the same shall be determined in the manner prescribed by law.

§ 10. If, in regard to any cause pending in the Supreme Court, the Judges sitting shall be equally divided in opinion, no judgment shall be entered therein, based on such division; but the parties to the cause may agree upon some person, learned in the law, who shall act as special judge in the cause, and who shall therein sit with the court, and give decision, in the same manner and with the same effect as one of the Judges. If the parties cannot agree upon a special judge the court shall appoint one.

§ 11. The Judges of the Supreme Court shall give their opinion upon important questions of Constitutional law, and, upon solemn occasions, when required by the Governor, the Senate, or the House of Representatives; and all such opinions shall be published in connection with the reported decisions of said court.

§ 12. [Every appeal or writ of error shall lie from any Circuit Court,

¹ This section was substituted by the first amendment, ratified in 1870, by a majority of 130,485, in place of the following:

"§ 12. The State, except the county of St. Louis, shall be divided into not less than five districts, each of which shall embrace at least three judicial circuits; and in each district a court, to be known as the District Court, shall be held, at such times and places as may be provided by law. Each District Court shall be held by the Judges of the Circuit Courts embraced in the district, a majority of whom shall be a quorum. The District Courts shall, within their respective districts, have like original jurisdiction with the Supreme Court, and appellate jurisdiction from the final judgments of the Circuit Courts, and of all inferior courts of record within the district, except Probate and County Courts. After the establishment of such District Courts, no appeal or writ of error shall lie from any Circuit Court, or inferior court of record, to the Supreme Court, but shall be prosecuted to the District Court, from the final judgment of which an appeal or writ of error may be taken to the Supreme Court, in such cases as may be provided by law."

All laws, ordinances and provisions not consistent with this amendment, were abolished upon its adoption.

or inferior court of record having concurrent jurisdiction with Circuit Courts to the Supreme Court, as in such cases may be provided by law.]

§ 13. The Circuit Court shall have jurisdiction over all criminal cases, which shall not be otherwise provided for by law; and exclusive original jurisdiction in all civil cases, which shall not be cognizable before Justices of the Peace, until otherwise directed by the General Assembly. It shall hold its terms at such time and place, in each county, as may be by law directed.

§ 14. The State shall be divided into convenient circuits, of which the county of St. Louis shall constitute one, for each of which, except as in the next succeeding section specified, a Judge shall be elected by the qualified voters of the respective circuits, and except as hereinafter provided, shall be elected for the term of six years; but may continue in office until his successor shall be elected and qualified; and the Judge of each circuit, after his election or appointment, as hereinafter provided, shall reside in, and be a conservator of the peace within the circuit for which he shall be elected or appointed; and if any vacancy shall happen in the office of any circuit Judge, by death, resignation, removal out of his circuit, or by any other disqualification, the Governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy: *Provided*, That said vacancy shall happen at least six months before the next general election for said Judge; but if such vacancy shall happen within six months of the general election aforesaid, the Governor shall appoint a Judge for such circuit; but every election or appointment, to fill a vacancy shall be for the residue of the term only. And the General Assembly shall provide, by law, for the election of said Judges in their respective circuits; and in case of a tie, or contested election between the candidates, the same shall be determined in the manner to be prescribed by law. And the General Assembly shall provide, by law, for the election of said Judges, in their respective circuits, to fill any vacancy which shall occur at any time at least six months before a general election for said Judges. At the general election, in the year one thousand eight hundred and sixty-eight, and at the general election every sixth year thereafter, except as hereinafter provided, all the circuit Judges shall be elected, and shall enter upon their offices on the first Monday of January next ensuing. No judicial circuit shall be altered or changed at any session of the General Assembly next preceding the general election for said Judges.

§ 15. From and after the first day of January, one thousand eight hundred and sixty-six, the Circuit Court of the county of St. Louis shall be composed of three Judges, each of whom shall try causes

separately, and all, or a majority of whom, shall constitute a court in *banc* to decide questions of law, and to correct errors occurring in trials; and, from and after that day, there shall not be in said county any other court of record having civil jurisdiction, except a Probate Court and a County Court. The additional Judges of the Circuit Court of the county of St. Louis, authorized by this section, shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold their offices until the next general election of Judges of Circuit Courts, when the whole number of the Judges of said court shall be elected. At the first session of said court after the Judges thereof, who may be elected in the year one thousand eight hundred and sixty-eight, shall have assumed office, the said Judges shall, by lot, determine the duration of their several terms of office, which shall be, respectively, two, four and six years; and shall certify the result to the Secretary of State. At the general election every two years, after the election in that year, one Judge of said court shall be elected, to hold office for the term of six years from the first Monday of January next ensuing. The General Assembly shall have power to increase the number of the Judges of said court, from time to time, as the public interest may require. Any additional Judges authorized shall hold office for the term of six years, and be elected at a general election, and enter upon their office on the first Monday of January next ensuing.

§ 16. The provisions contained in this article, requiring an election to be held to fill a vacancy in the office of Judges of the Supreme and circuit Courts, shall have relation to vacancies occurring after the year one thousand eight hundred and sixty-eight; up to which time any such vacancy shall be filled by appointment by the Governor.

§ 17. If there be a vacancy in the office of Judge of any circuit, or if he be sick, absent, or from any cause unable to hold any term of court of any county of his circuit, such term of court may be held by a Judge of any other circuit; and at the request of the Judge of any Circuit, any term of court in his circuit may be held by the Judge of any other circuit.

§ 18. No person shall be elected or appointed a Judge of the Supreme Court, nor of a Circuit Court, before he shall have attained to the age of thirty years, and have been a citizen of the United States five years, and a qualified voter of this State three years.

§ 19. Any Judge of the Supreme Court or the Circuit Court may be removed from office, on the address of two-thirds of each House of the General Assembly to the Governor for that purpose; but each House shall state, on its respective journal, the cause for which it

shall wish the removal of such Judge, and give him notice thereof; and he shall have the right to be heard in his defense, in such manner as the General Assembly shall by law direct; but no Judge shall be removed in this manner for any cause for which he might have been impeached.

§ 20. The Judges of the Supreme Court, and the Judges of the Circuit Courts, shall, at stated times, receive a compensation for their services, to be fixed by law, which shall not be diminished during the period for which they were elected.

§ 21. The Circuit Court shall exercise a superintending control over all such inferior tribunals as the General Assembly may establish, and over Justices of the Peace in each county in their respective circuits.

§ 22. The Supreme Court and the District Courts shall appoint their respective clerks. Clerks of all other courts of record shall be elected by the qualified voters of the county, at a general election, and shall hold office for the term of four years from and after the first Monday of January next ensuing, and until their successors are duly elected and qualified. The first election of such clerks, after the adoption of this Constitution, shall be at the general election in the year one thousand eight hundred and sixty-six; any existing law of this State to the contrary notwithstanding.

§ 23. Inferior tribunals, to be known as County Courts, shall be established in each county for the transaction of all county business. In such courts, or in such other tribunals inferior to the Circuit Courts, as the General Assembly may establish, shall be vested the jurisdiction of all matters appertaining to probate business, to granting letters testamentary and of administration, to settling the accounts of executors, administrators and guardians, and to the appointment of guardians, and such other jurisdiction as may be conferred by law.

§ 24. No clerk of any court, established by this Constitution, or by any law of this State, shall apply to his own use, from the fees and emoluments of his office, a greater sum than two thousand five hundred dollars for each year of his official term, after paying out of such fees and emoluments such amounts for deputies and assistants in his office as the court may deem necessary, and may allow; but all surplus of such fees and emoluments over that sum, after paying the amounts so allowed, shall be paid into the county treasury for the use of the county. The General Assembly shall pass such laws as may be necessary to carry into effect the provisions of this section.

§ 25. In each county there shall be appointed, or elected, as many Justices of the Peace as the public good may be thought to require. Their powers and duties, and their duration in office, shall be regulated by law.

§ 26. All writs and process shall run, and all prosecutions shall be conducted in the name of the "State of Missouri;" and all writs shall be tested by the clerk of the court from which they shall be issued; and all indictments shall conclude "against the peace and dignity of the State."

ARTICLE VII.

IMPEACHMENTS.

SECTION 1. The Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and all Judges of the courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend farther than removal from office, and disqualification to hold any office of honor, trust or profit under this State.

§ 2. The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate; and when sitting for that purpose the Senators shall be on oath or affirmation to do justice according to law and evidence. When the Governor shall be tried, the Presiding Judge of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators present.

ARTICLE VIII.

BANKS AND CORPORATIONS.

SECTION 1. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing or putting in circulation any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the General Assembly shall prohibit, by law, individuals and corporations from issuing bills, checks, tickets, promissory notes, or other paper to circulate as money.

§ 2. No law shall be passed reviving or re-enacting any act heretofore passed creating any private corporation, where such corporation shall not have been organized and commenced the transaction of its business within one year from the time such act took effect, or within such other time as may have been prescribed in such act for such organization and commencement of business.

§ 3. The General Assembly shall, at its first session after this Constitution goes into effect, enact laws enabling any of the existing banks of issue to reorganize as national banks under the act of Congress; and shall also provide for the sale of the stock owned by this State in the Bank of the State of Missouri, upon such terms and conditions as shall be by law established.

§ 4. Corporations may be formed under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

§ 5. No municipal corporations, except cities, shall be created by special act; and no city shall be incorporated with less than five thousand permanent inhabitants, nor unless the people thereof, by a direct vote upon the question, shall have decided in favor of such incorporation.

§ 6. Dues from private corporations shall be secured by such means as may be prescribed by law; but in [no case shall any stockholder be individually liable in any amount over or above the amount of the stock owned by him or her.¹]

ARTICLE IX.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free schools for the gratuitous instruction of all persons in this State, between the ages of five and twenty-one years.

§ 2. Separate schools may be established for children of African descent. All funds provided for the support of public schools shall be appropriated in proportion to the number of children, without regard to color.

§ 3. The supervision of public instruction shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. A Superintendent of Public Schools, who shall be the President of the Board, shall be elected by the qualified voters of the State. He shall possess the qualifications of a State Senator, and hold his office for the term of four years; and shall perform such duties, and receive such compensation, as may be prescribed by law. The Secretary of State and Attorney-General shall be *ex officio* members, and, with the Superintendent, compose said Board of Education.

§ 4. The General Assembly shall also establish and maintain a State University, with departments for instruction in teaching, in agriculture, and in natural science, as soon as the public school fund will permit.

¹ Changed to this form by the third amendment, ratified in 1870, by a majority of 120,680. The language of the section was originally as follows:

"Dues from private corporations shall be secured by such means as may be prescribed by law; but in all cases each stockholder shall be individually liable, over and above the stock by him or her owned, and any amount unpaid thereon, in a further sum, at least equal in amount to such stock."

§ 5. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands, and other property now belonging to any fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, or from sales of estrays, or from unclaimed dividends, or distributive shares of the estates of deceased persons, or from fines, penalties, and forfeitures; also, any proceeds of the sales of public lands which may have been, or hereafter may be, paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts, or devises that have been, or hereafter may be, made to this State, and not otherwise appropriated by the terms of the grant, gift, or devise, shall be securely invested and sacredly preserved as a public school fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the university in this article provided for, and for no other uses or purposes whatsoever.

§ 6. No part of the public school fund shall ever be invested in the stock, or bonds, or other obligations of any State, or of any county, city, town or corporation. The stock of the Bank of the State of Missouri now held for school purposes, and all other stocks belonging to any school or university fund, shall be sold, in such manner and at such time as the General Assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, may be invested in the bonds of the United States. All county school funds shall be loaned upon good and sufficient unincumbered real estate security, with personal security in addition thereto.

§ 7. No township or school district shall receive any portion of the public school fund, unless a free school shall have been kept therein for not less than three months during the year for which distribution thereof is made. The General Assembly shall have power to require, by law, that every child, of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to sixteen months, unless educated by other means.

§ 8. In case the public school fund shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide by law for the raising of such deficiency, by levying a tax on all the taxable property in each county, township or school district, as they may deem proper.

§ 9. The General Assembly shall, as far as it can be done without infringing upon vested rights, reduce all lands, moneys and other property, used or held for school purposes, in the various counties of this State, into the public school fund herein provided for; and in making distribution of the annual income of said fund, shall take into consideration the amount of any county or city funds, appropriated for common school purposes, and make such distribution as will equalize the amount appropriated for common schools throughout the State.

[§ 10.¹ Neither the General Assembly, nor any county, city, township, school district or other municipal corporation, shall ever make any appropriation, or pay from any public fund whatever, any thing in aid of any creed, church or sectarian purpose, or to help, support or sustain any school, academy, seminary, college, university or other institution of learning, controlled by any creed, church or sectarian denomination whatever, nor shall any grant or donation of personal property or real estate ever be made by State, county, city, town or such public corporation, for any creed, church or sectarian purpose whatever.]

ARTICLE X.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; and there shall be no exemption from such duty, except of such persons as the General Assembly may by law exempt.

§ 2. The General Assembly shall by law provide for the organization of the militia, and for the paying of the same when called into actual service; but there shall be no officer above the grade of Brigadier-General, nor shall there be more than two officers of that grade.

§ 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the Governor, they may be appointed by the Governor.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor

¹ Added by the sixth amendment ratified by the people November 8, 1870, by a majority of 115,329.

with any regulation which Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

§ 2. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said river shall form a common boundary to this State and any other State which may be bounded thereby; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this State, shall be common highways, and forever free to the citizens of this State and the United States, without any tax, duty, impost or toll therefor imposed by the State.

§ 3. All statute laws of this State now in force, not inconsistent with this Constitution, shall continue in force until they shall expire by their own limitation, or be amended or repealed by the General Assembly; and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue; and all indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as herein-after specified.

§ 4.¹ No person shall be prosecuted in any civil action or criminal proceeding, for or on account of any act by him done, performed or executed, after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the government of the United States, or that of this State, to do such act, or in pursuance of orders received by him from any person vested with such authority; and if any action or proceeding shall have heretofore been, or shall hereafter be, instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

§ 5. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry, a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

§ 6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

§ 7. No person holding an office of profit under the United States, shall, during his continuance in such office, hold any office of profit under this State.

¹ This section was, in the case of *Dreman v. Stile*, declared not a bill of attainder, nor as impairing the obligation of a contract. 8 Wall. (U. S.) 585.

§ 8. In the absence of any contrary provision, all officers now or hereafter elected or appointed, shall hold office during their official term, and until their successors shall be duly elected or appointed, and qualified.

§ 9. The General Assembly shall have power to repeal or modify all ordinances adopted by any previous Convention.

§ 10. The seat of government of this State shall remain at the City of Jefferson.

§ 11. No person emancipated by the "*Ordinance abolishing slavery in Missouri*," adopted on the eleventh day of January, one thousand eight hundred and sixty-five, shall, by any County Court or other authority, be apprenticed, or bound for any service, except in pursuance of laws made specially applicable to the persons so emancipated.

§ 12. The General Assembly shall provide, by law, for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offense was committed, whenever, owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impaneled in the county in which such offense was committed.

§ 13. The credit of the State shall not be given or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

§ 14. The General Assembly shall not authorize any county, city or town to become a stockholder in, or to loan its credit to, any company, association or corporation, unless two-thirds of the qualified voters of such county, city or town, at a regular or special election to be held therein, shall assent thereto.

§ 15. The General Assembly shall have no power, for any purpose whatever, to release the lien held by the State upon any railroad.

§ 16. No property, real or personal, shall be exempt from taxation, except such as may be used exclusively for public schools, and such as may belong to the United States, to this State, to counties, or to municipal corporations within this State.

ARTICLE XII.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. This Constitution may be amended and revised in pursuance of the provisions of this article.

§ 2. The General Assembly, at any time, may propose such amendments to this Constitution as a majority of the members elected to

each House shall deem expedient; and the vote thereon shall be taken by yeas and nays, and entered in full on the journals. And the proposed amendments shall be published with the laws of that session, and also shall be published weekly in two newspapers, if such there be, within each Congressional District in the State, for four months next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the General Assembly may provide. And if a majority of the qualified voters of the State, voting for and against any of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this Constitution.

§ 3. The General Assembly may, at any time, authorize by law, a vote of the people to be taken, upon the question whether a Convention shall be held for the purpose of revising and amending the Constitution of this State; and if at such election a majority of the votes on the question be in favor of a Convention, the Governor shall issue writs to the Sheriffs of the different counties, ordering the election of Delegates to such a Convention, on a day within three months after that on which the said question shall have been voted on. At such election, each Senatorial district shall elect two Delegates for each Senator to which it may be then entitled in the General Assembly, and every such Delegate shall have the qualifications of a Senator. The election shall be conducted in conformity with the laws regulating the election of Senators. The Delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a Convention, and proceed to revise and amend the Constitution; and the Constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty nor more than ninety days after that on which it shall have been adopted by the Convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose only; and if a majority of all the votes given be in favor of such Constitution, it shall, at the end of thirty days after such election, become the Constitution of this State. The result of such election shall be made known by proclamation by the Governor. The General Assembly shall have no power, otherwise than as in this section specified, to authorize a Convention for revising and amending the Constitution.

ARTICLE XIII.

PROVISIONS FOR PUTTING THIS CONSTITUTION INTO FORCE.

And we do further ordain as follows :

SECTION 1. The preceding parts of this instrument shall not take effect unless this Constitution be adopted by the people at the election to be held as hereinafter directed ; but the provisions of this article shall be in force from the day of the adoption of this Constitution by the Representatives of the people in this Convention assembled.

§ 2. For the purpose of ascertaining the sense of the people in regard to the adoption or rejection of this Constitution, the same shall be submitted to the qualified voters of the State, at an election to be held on the sixth day of June, one thousand eight hundred and sixty-five, at the several election precincts in the State, and elsewhere, as hereafter provided. On that day, or on any day not more than fifteen days prior thereto, such qualified voters of this State as shall then be absent from the places of their residence, by reason of their being in the military service of the United States, or of this State, whether they then be in or out of this State, shall be entitled to vote on the adoption or rejection of this Constitution. For that purpose, a poll shall be opened in each Missouri regiment or company in such service, at the quarters of the commanding officer thereof ; and the voters of this State belonging to such regiment or company, and any others belonging to any other such regiment or company, and who may be present, may vote at such poll. Any one or two commissioned officers of such regiment or company, who may be present at the opening of the polls, shall act as judge or judges of the election ; and if no such officer be present, then the voters of such regiment or company present, shall elect two of the voters present to act as such judges. Every such judge shall, before any votes are received, take an oath or affirmation that he will honestly and faithfully perform the duties of judge, and make proper return of the votes given at such election ; and such oath the judges may administer to each other. In any election held in a regiment or company, the polls shall be opened at eight o'clock, A. M., and closed at six o'clock, P. M.

§ 3. The election provided for in the next preceding section shall be by ballot. Those ballots in favor of the Constitution shall have written or printed thereon the words, "New Constitution — Yes ;" those against the Constitution shall have written or printed thereon the words, "New Constitution — No."

§ 4. The said election shall be conducted, and the returns thereof made to the Clerks of the several County Courts, and by them imme-

diately certified to the Secretary of State, as provided by law in the case of elections of State officers; and where an election shall be held in a regiment or company, the returns thereof, with the poll books, shall be certified to the Secretary of State, and may be transmitted by mail, or by any messenger to whom the judges of the election may intrust the same for that purpose.

§ 5. Any qualified voter of this State, within the State, who, on the day of said election, shall be absent from the place of his residence, may vote at any place of voting, upon satisfying the judges that he is a qualified voter, and being sworn by them that he has not voted, and will not vote, at said election in any other election precinct.

§ 6. At said election no person shall be allowed to vote who would not be a qualified voter according to the terms of this Constitution, if the second article thereof were then in force. The judges of election shall administer to every person offering to vote, in lieu of the oath now required to be taken by voters under the ordinance of June 10th, 1862, the following oath, to wit: "I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the Constitution of the State of Missouri, adopted by the Convention which assembled in the city of St. Louis, on the sixth day of January, eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me." Should any such person decline to take said oath, he shall not be permitted to vote at said election; but the taking thereof shall not be deemed conclusive evidence of the right of such person to vote, but such right may be disputed and disproved. Any person who shall falsely take, or having taken, shall thereafter willfully violate, the oath prescribed in this section, shall, upon conviction thereof by any court of competent jurisdiction, be adjudged guilty of the crime of perjury, and shall be punished therefor in accordance with existing law.

§ 7. On the first day of July next ensuing said election, the Secretary of State shall, in presence of the Governor, the Attorney-Gener-

ral, or the State Auditor, proceed to examine and cast up the returns of the votes taken at said election, and certified to him, including those of persons in the military service; and if it shall appear that a majority of all the votes cast at such election were in favor of the Constitution, the Governor shall issue his proclamation, stating that fact, and this Constitution shall, on the fourth day of said month of July, be the Constitution of the State of Missouri.

§ 8. The officer now known as the "Auditor of Public Accounts" shall hereafter be styled State Auditor.*

§ 9. The office of Register of Lands shall continue until the General Assembly shall abolish the same.

Done by the Representatives of the people of the State of Missouri, in Convention assembled, at the city of St. Louis, on the 8th day of April, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the eighty-ninth.

ARNOLD KREKEL, of St. Charles county,
President.

CHARLES D. DRAKE, of St. Louis,

Vice-President.

Attest:

AMOS P. FOSTER, *Secretary.*

THOMAS PROCTOR, *Assistant Secretary.*

Wm. B. Adams, *Montgomery county.*

A. J. Barr, *Ray county.*

A. M. Bedford, *Mississippi county.*

D. Bonham, *Andrew county.*

Geo. K. Budd, *St. Louis county.*

Harvey Bunce, *Cooper county.*

R. L. Childress, *Webster county.*

John H. Davis, *Nodaway county.*

I. B. Dobson, *Adair county.*

John H. Ellis, *Livingston county.*

John Esther, *Laclede county.*

Ellis G. Evans, *Crawford county.*

Chauncey I. Filley, *St. Louis county.*

J. W. Fletcher, *Jefferson county.*

W. Folmsbee, *Daviess county.*

F. M. Fulkerson, *Saline county.*

John W. Gamble, *Audrain county.*

A. Gilbert, *Lawrence county.*

David Henderson, *Dent county.*

E. A. Holcomb, *Chariton county.*

J. H. Holdsworth, *Monroe county.*

W. S. Holland, *Henry county.*

J. F. Hume, *Moniteau county.*

Wyllys King, *St. Louis county.*

Reeves Leonard, *Howard county.*

John F. McKernan, *Cole county.*

Archibald McPherson, *Perry county.*

John A. Mack, *Greene county.*

Ferdinand Meyer, *St. Louis county.*

Dorastus Peck, *Iron county.*

Jonathan Tho. Rankin, *Daide county.*

K. G. Smith, *Mercer county.*

Geo. P. Strong, *St. Louis county.*

James T. Sutton, *Wayne county.*

John U. Sweavingen, *Wayne county.*

Wm. F. Switzer, *Boone county.*

Lewis H. Weatherby, *Dekalb county.*

Jeremiah Williams, *Caldwell county.*

Eugene Williams, *Scotland county.*

[Messrs. Bedford, Bush, D'Oench, Fletcher, Foster, Gilstrap, Green, Husnam, Linton, Meyer, Rolwer, Smith of Worth, and Switzer, voted against the adoption of the Constitution, and Messrs. Clover, Cowden, Davis, of New Madrid, Gilbert, of Platte, Grammer, Hughes, Mitchell, Morton, Newgent, Nixdorf, Owens, St. Gem, and Thilenius were absent, when the final vote was taken.]

AN ORDINANCE

FOR THE PAYMENT OF STATE AND RAILROAD INDEBTEDNESS.¹

Be it ordained by the People of the State of Missouri, in Convention assembled, as follows :

SECTION 1. There shall be levied and collected from the Pacific Railroad, the North Missouri Railroad, and the St. Louis and Iron Mountain Railroad companies, an annual tax of ten per centum of their gross receipts for the transportation of freight and passengers (not including amounts received from, and taxes paid to, the United States), from the 1st of October, 1866, to the 1st of October, 1868, and fifteen per centum thereafter; which tax shall be assessed and collected in the county of St. Louis, in the same manner as other State taxes are assessed and collected, and shall be appropriated by the General Assembly to the payment of the principal and interest now due, or hereafter to become due, upon the bonds of the State, and the bonds guaranteed by the State, issued to the aforesaid railroad companies.

§ 2. A like tax of fifteen per centum shall be assessed and collected from the Hannibal and St. Joseph Railroad Company, and from the Platte County Railroad Company, whenever default is made by said companies, or either of them, in the payment of the interest and principal of the bonds of the State, on the bonds guaranteed by the State, issued to said companies, respectively; which tax shall be assessed and collected in such manner as the General Assembly may, by law, direct, and shall be applied for the payment of principal and interest of said bonds, as the same may become due or payable.

§ 3. The tax in this ordinance specified shall be collected from each company hereinbefore named, only for the payment of the principal and interest of the bonds, for the payment of which such company shall be liable, and whenever such bonds and interest shall have been fully paid, no further tax shall be collected from such company; but nothing shall be received by the State, in discharge of any amounts due upon said bonds, except cash or other bonds or obligations of this State.

§ 4. Should either of said companies refuse or neglect to pay said tax, as herein required, and the interest or principal of any of said bonds, or any part thereof, remain due and unpaid, the General Assembly shall provide by law, for the sale of the railroad and other property, and the franchises of the company, that shall be thus in default, under the lien reserved to the State, and shall appropriate the

¹ This ordinance became a part of the Constitution by being ratified by the people at an election held June 6, 1865. The vote was 39,067 for, and 20,900 against, its adoption.

proceeds of such sale to the payment of the amount due and unpaid from such company.

§ 5. Whenever the State shall become the purchaser of any railroad or other property or franchises, sold as hereinbefore provided for, the General Assembly shall provide, by law, in what manner the same shall be sold, for the payment of the indebtedness of the railroad company in default; but no railroad or other property, or franchises, purchased by the State, shall be restored to any such company until it shall have first paid, in money, or in Missouri State bonds, or in bonds guaranteed by this State, all interest due from said company; and all interest thereafter accruing shall be paid semi-annually in advance; and no sale or other disposition of any of such railroad or other property, or the franchises, shall be made without reserving a lien upon all the property and franchises thus sold or disposed of, for all sums remaining unpaid; and all payments therefor shall be made in money, or in the bonds or other obligations of this State.

§ 6. The General Assembly shall provide by law, for the payment of all State indebtedness not hereinbefore provided for; and for this purpose a tax of one quarter of one per centum on all real estate, and other property and effects subject to taxation, shall be assessed and collected; and shall be appropriated for the payment of all such indebtedness that may be matured; and the surplus, if any, shall be set apart as a sinking fund for the payment of the obligations of the State, that may hereafter become due, and for no other purpose whatever.

§ 7. At the election to be held on the sixth day of June, 1865, for the purpose of ascertaining the sense of the people in regard to the adoption or rejection of the Constitution adopted by this Convention, the question of adoption or rejection of this ordinance shall be submitted to the voters of this State, who shall be qualified as voters under the provisions of Article XIII of said Constitution, and shall take the oath in said article prescribed; and the vote at such election shall be taken, and the returns thereof made, at the same time, under the same restrictions, and in the same manner, as in said article is provided for the vote upon the question of adoption or rejection of said Constitution. The election herein provided for shall be by ballot. Those ballots in favor of this Ordinance shall have written or printed thereon the words, "*Shall the railroads pay their bonds? Yes.*" Those opposed to this Ordinance shall have written or printed thereon the words, "*Shall the railroads pay their bonds? No.*" If the majority of all the votes cast at such election shall be in favor of this Ordinance, the same shall be valid; and have full force and effect as a part of the Constitution of this State, whether the new Constitu-

tion adopted by this Convention be adopted or rejected. If a majority of such voters shall be against this Ordinance, it shall have no force or validity whatsoever. The Governor of this State shall, by proclamation, make known the result of the election herein provided for.

Adopted in Convention April 10th, A. D. 1865.

ARNOLD KREKEL, *President.*

AMOS P. FOSTER, *Secretary.*

The following Ordinances were also passed by the Constitutional Convention of 1865 :

An Ordinance abolishing slavery in Missouri; passed January 11, 1865, signed by sixty-three Delegates.

An Ordinance to protect emancipated negroes from apprenticeship; passed January 12, 1865.

An Ordinance for the vacating of certain civil offices in the State, filling the same anew, and protecting the citizens from injury and harassment; passed March 17, 1865.

An Ordinance for paying the officers, members and others, of the Missouri Convention; passed April 5, 1865.

An Ordinance for obtaining the votes of Missouri soldiers on the Constitution; passed April 8, 1865.

An Ordinance for the organization and government of the Missouri militia; passed April 8, 1865.



NEBRASKA.

The State of Nebraska was included in the Louisiana purchase of April 3, 1803, and formed a part of the "District," and afterward the "Territory," of Louisiana, until changed to "Missouri Territory" in 1812. After the organization of the State of Missouri in 1821, the remainder of that territory remained for many years without organization. The earliest attempt to organize this territory was made December 17, 1844, when Senator Douglass, of Illinois, introduced a bill to establish the Territory of Nebraska. It was referred, and on the 7th of January, 1845, an amendatory bill was reported, but no further action was then taken. On the 15th of March, 1848, the same Senator introduced, on leave, a bill for the same purpose, which was reported without amendment April 20th; recommitted December 28th, 1848, and not reported. The measure then rested until brought up with the Kansas question in 1853-4.

The "Territory of Nebraska" was organized May 30, 1854, embracing the region bounded south by the line of 40° north latitude, from the Missouri river to the crest of the Rocky Mountains; thence along said crest to the line of 49° north latitude; thence east along the national boundary to Minnesota Territory, and thence along the White Earth and Missouri rivers to the place of beginning. It will be observed that these boundaries included, besides the present State of Nebraska, the whole of Montana, the western part of Dakotah, the greater part of Wyoming, and the north-eastern part of Colorado Territories. The triangular tract east of the Rocky Mountains, west of 108° west longitude, and south of 42° north latitude, was formerly a part of Mexico, and finally became the property of the United States by the treaty of 1848.

The Territory of Colorado, formed February 28, 1861, took from Nebraska all south of 41° north latitude, and west of 25° west from Washington.

The Territory of Dakota, formed on the 2d of March, 1861, took off all of Nebraska north of a line running from the Rocky Mountains east, on the parallel of 43° north latitude to the Kcha-Paha or Turtle Hill river, and thence down the same, and the Niobrara or Running Water, and the Missouri rivers, to the line of Iowa. Small parts of Washington and Utah Territories west of the Rocky Mountains, between 41° and 43° north latitude, and east of 33° west longitude from Washington, were annexed to Nebraska. Finally, on the 3d of March, 1863, on the formation of Idaho Territory, all west of 27° west longitude was included in the new Territory, and Nebraska was reduced to her present limits. In the question of the formation of a Territorial government, Nebraska was associated with Kansas, and they were both established as Territories by the same act. There was however, little of that violence and disorder witnessed upon her soil that formed so prominent a feature in the early history of Kansas, and the two were manifestly united in the controversy with the view of securing the institution of slavery in one, by granting freedom in the other.

The question of forming a State government was submitted to the people of the Territory in March, 1860, and disapproved, by a vote of 1,877 to 1,987.

In accordance with a request of the Territorial Legislature, passed on the 16th of January, 1864, asking for the passage of an enabling act, and for allowing the people to vote upon the question of a Convention, such an act was passed by Congress, and approved April 19, 1864, authorizing the inhabitants to form a State government, upon condition that the Constitution formed should be republican,

and not repugnant to the Constitution of the United States, and the principles of the Declaration of Independence; and provided further, that it should contain an article forever irrevocable without the consent of Congress:

1st. That slavery or involuntary servitude should be forever prohibited in said State.

2d. That perfect toleration of religious sentiment should be secured, and no inhabitant of said State to be ever molested in person or property on account of his or her mode of religious worship.

3d. That the people of the Territory should disclaim all right to the unappropriated public lands within its borders; that the lands of citizens of the United States, not residing within the State, should not be taxed higher than the land belonging to residents, and that the land or property of the United States should not be taxed.

An election was to be held on the first Monday of June, and the Convention then elected was to meet on the first Monday of July. The result of their labors was to be submitted to the people for their ratification or rejection on the second Tuesday of October, and if a majority approved, the President was directed to make proclamation accordingly, declaring the State admitted to all the rights and privileges of the original States.

The estimated population of the Territory, at this time, was about 30,000, and there were many inhabitants who did not favor the proposed measure, holding that they "ought not to tax themselves for any thing which the general government is willing, or is bound to pay."

It is believed that a Convention was elected and assembled, but that they adjourned in January, 1865, without at that time forming or submitting a Constitution.

While the war continued, the growth of the Territory was checked, and Indian hostilities tended to render immigration uninviting, if not in some sections hazardous. But upon the establishment of peace, a rapid increase of numbers led to a desire for a separate State government, and early in 1866, the Territorial Legislature, without calling a Convention, undertook the task of framing a Constitution, which was completed and approved by them February 9, 1866.

Their labors were submitted to the people at an election held June 21, 1866, and ratified by a vote of 3,938 to 3,838. The first Legislature under the State government was convened July 4, 1866.

A bill for the admission of Nebraska as a State, was passed by both Houses of Congress, July 28, 1866, just before their adjournment, but was neither signed nor rejected by the President. A bill for this purpose was again passed in January, 1867, but was returned by the President on 30th of that month with his objections, the principal of which were, that the bill embraced conditions not mentioned in the enabling act, that the proceedings attending the formation of the Constitution were different from those prescribed; and that the population did not at that time justify the admission of Nebraska as a State. The bill was, however passed, over the President's veto, in the Senate, February 8th, by a vote of 30 to 9, and in the House the next day, by a vote of 120 to 44.

The bill admitted the State into the Union upon an equal footing with the original States, with the following express condition:

"§ 3. *And be it further enacted*, That this act shall not take effect, except upon the fundamental condition, that, within the State of Nebraska, there shall be no denial of the elective franchise, or of any other right, to any person by reason of race or color, except Indians not taxed, and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare

the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act.”

Upon receipt of this, the President was required by proclamation to announce the fact, and from that time, without further proceeding on the part of Congress, the admission of the State into the Union was to be considered as complete.

Upon the 19th of February, 1867, the Governor of Nebraska issued his proclamation calling the Legislature, to take action upon the conditions proposed.

The Legislature convened at Omaha on the 20th of February, and after due deliberation (not regarding the late act of Congress, or the conditions therein contained, “to be in violation of any right of the State of Nebraska, or of the people thereof, or as abridging, or in any manner infringing any of the privileges enjoyed by the citizens of Nebraska while in a Territorial condition”), they enacted, “That the act of the Congress of the United States, entitled ‘An act for the admission of the State of Nebraska into the Union,’ passed February 9, 1867, be and the same is hereby ratified and accepted, and it is hereby declared that the provisions of the third section of said act of Congress shall be a part of the organic law of the State of Nebraska.”

The compliance with these conditions was announced by proclamation of the President, March 1, 1867.

By an act of the State Legislature, passed June 14, 1867, the Governor, Secretary of State and Auditor were appointed Commissioners to select from the lands belonging to the State in certain counties a site for a permanent State capital, to be known as “Lincoln,” to which, after the erection of public buildings, the public offices were to be removed. This site has been selected and the seat of government established there.

A Convention for revising the Constitution of this State having been decided upon, Delegates were elected May 2; met June 5, and adjourned August 19, 1871, having completed a Constitution, which was submitted to the electors September 19 of that year. The result was *against* its adoption by a vote of 7,986 to 8,627. Five separate questions were submitted as follows: For individual liability of stockholders of banks, 7,286; against, 8,580.— For prohibiting county or municipal aid to corporations, 9,549; against, 2,859.— For compulsory education and reformatory schools, 6,276; against, 9,958.— For the section relating to inhibition and license for sale of intoxicating liquors, 6,071; against, 10,160.— For extension of right of suffrage [permitting an act allowing females to vote], 3,502; against, 12,776.

CONSTITUTION OF NEBRASKA, 1867.

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 - Finance.
 - Eminent domain.
 - Education.
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PREAMBLE.

We, the people of Nebraska, grateful to Almighty God for our freedom, in order to obtain its blessings, form a more perfect government, insure domestic tranquility, and promote the general welfare, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

§ 3. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

§ 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

§ 5. The right of trial by jury shall remain inviolate, but the Legislature may authorize trial by a jury of a less number than twelve men, in inferior courts.

§ 6. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

§ 7. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses, and to have the assistance of counsel.

§ 8. No person shall be held to answer for a criminal offense unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by Justices of the Peace, or arising in the army or navy, or in the militia, when in actual service in time of war or public danger; and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require.

§ 9. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

§ 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and

comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

§ 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

§ 13. The property of no person shall be taken for public use without just compensation therefor.

§ 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud.

§ 16. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths or affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship and to encourage schools and the means of instruction.

§ 17. The military shall be in strict subordination to the civil power.

§ 18. The writ of error shall be a writ of right in all capital cases, and shall operate as a supersedeas to stay the execution of the sentence of death until the further order of the Supreme Court in the premises.

§ 19. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

§ 20. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The Legislative authority of this State shall be vested in a General Assembly which shall consist of a Senate and House of Representatives, and the style of every law shall be

"Be it enacted by the Legislature of the State of Nebraska."

§ 2. Every male person of the age of twenty-one years, or upward, belonging to either of the following classes, who shall have resided in the State, county, precinct and ward, for the time provided by law, shall be an elector :

First. White citizens of the United States.

Second. White persons of foreign birth who shall have declared their intention to become citizens conformable to the laws of the United States on the subject of naturalization.

§ 3. The Legislature shall provide by law for an enumeration of the inhabitants of the State in the year one thousand eight hundred and seventy-five, and at the end of every ten years thereafter ; and at their first session after such enumeration, and also after each enumeration made by the authority of the United States, the Legislature shall apportion and district anew the members of the Senate and House of Representatives, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

§ 4. Senators and Representatives shall be elected biennially, by the electors in the respective counties or districts, on the second Tuesday of October. Their term of office shall commence on the first day of January next thereafter, and continue two years, except the Senators and Representatives to the first Legislature under this Constitution, whose election and term of office shall be as hereinafter provided.

§ 5. The Senators and Representatives shall be chosen by districts of convenient contiguous territory, as compact as may be, to be defined by law, except as to the first election which is hereinafter provided for.

§ 6. Every white male citizen, who shall be a qualified elector in the district which he may be chosen to represent, shall be eligible to a seat in the Legislature.

§ 7. Each House shall be the judge of the election and qualifications of its own members, and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

§ 8. The Senate shall consist of thirteen members, and the House of Representatives shall consist of thirty-nine members, and shall not be increased for the term of ten years after the adoption of this Constitution: *Provided*, That after the expiration of said ten years, the Legislature shall have power to increase the number of Senators and Representatives, so as to correspond with the increase of the population of the State: *Provided*, Such number shall at no time be more than twenty-five in the Senate and seventy-five in the House of Representatives.

§ 9. The mode of organizing the House of Representatives at the commencement of each regular session shall be prescribed by law.

§ 10. Each House shall choose its own officers, may determine its own rule of proceedings, punish its members for disorderly conduct, and with the concurrence of two-thirds expel a member, but not the second time for the same cause; and shall have all other powers necessary to provide for its safety and the undisturbed transaction of its business.

§ 11. Each House shall keep a correct journal of its proceedings which shall be published. At the desire of any three members in the Senate, or any five members in the House, the ayes and nays shall be entered upon the journal, and on the passage of every bill, in either House, the vote shall be taken by yeas and nays, and entered upon the journal, and no law shall be passed in either House without the concurrence of a majority of all the members elected thereto.

§ 12. The first session of the Legislature under this Constitution shall be held on the fourth day of July, one thousand eight hundred and sixty-six; and all regular sessions thereafter shall commence on the first Thursday after the first Monday in January, biennially. But the Legislature may on extraordinary occasions be convened by proclamation of the Governor, and when so convened shall transact no business, except such as relates to the objects for which they were so convened, to be stated in the proclamation of the Governor.

§ 13. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

§ 14. No person being a member of Congress, or holding any military or civil office under the United States, shall be eligible to a seat in the Legislature; and if any person shall, after his election as a member of the Legislature, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

§ 15. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

§ 16. Members of the Legislature shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the Legislature, nor for fifteen days next before the commencement, and after the termination of each session.

§ 17. No member of the Legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

§ 18. Bills may originate in either House; but may be altered, amended, or rejected in the other.

§ 19. Every bill shall be fully and distinctly read on three different days, unless, in case of urgency, three-fourths of the House in which it shall be pending, shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended, unless the new act contain the entire act revived, and the sections amended; and the section or sections so amended shall be repealed.

§ 20. The presiding officer of each House shall sign publicly, in the presence of the House over which he presides, while the same is in session and capable of transacting business, all bills and joint resolutions passed by the Legislature.

§ 21. Each member of the Legislature shall receive for his services three dollars for each day's attendance during the session, and ten cents for every mile he shall travel in going to and returning from the place of the meeting of the Legislature, on the most usual route.

Provided, however, That they shall not receive pay for more than forty days at any one session.

§ 22. The Legislature shall never authorize any lottery or grant any divorce.

§ 23. The Legislature shall provide by law that all stationery required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder; but the Legislature may establish a maximum price. No member of the Legislature, or other State officer, shall be interested, either directly or indirectly, in any such contract.

§ 24. The Legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

§ 25. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Nebraska, and faithfully to discharge the duties of their respective offices to the best of their ability.

§ 26. The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same, in such manner as shall be prescribed by law.

§ 27. In all elections by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

§ 28. The House of Representatives shall have the sole power of impeachment; but a majority of the members elected must concur therein. Impeachments shall be tried by the Senate; and the Senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the Senators.

§ 29. The Governor, Secretary of State, Auditor, Treasurer and Judges of the Supreme and District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law. All other civil officers shall be tried for misdemeanors in office, in such manner as the Legislature may provide.

§ 30. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be made for a longer period than two years.

§ 31. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this Constitution.

§ 32. The Legislature shall not authorize the borrowing of money or the issuance of State bonds for any sum exceeding in the aggregate fifty thousand dollars, without submitting a proposition therefor to a vote of the people for their approval or rejection, except in case of war, to repel invasion or suppress insurrection.

EXECUTIVE.

SECTION 1. The Executive Department shall consist of a Governor, Secretary of State, Auditor and Treasurer, who shall be chosen by the

electors of the State on the second Tuesday of October and at the places of voting for members of the Legislature.

§ 2. The Governor, Secretary of State and Treasurer shall hold their offices for two years, and the Auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

§ 3. The returns of every election for the officers named in the foregoing section, shall be sealed up and transmitted to the seat of government by the returning officers, directed to the President of the Senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each House of the Legislature.

The person having the highest number of votes shall be declared duly elected; but if any two or more shall be the highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both Houses.

§ 4. No person except a citizen of the United States and a qualified elector of the State shall be eligible to any office provided for by this Constitution.

§ 5. Should there be no session of the Legislature in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the Secretary of State, and opened, and the result declared by the Governor, in such manner as may be provided by law.

§ 6. The Supreme Executive power of this State shall be vested in the Governor.

§ 7. He may require information, in writing, from the officers in the Executive Department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

§ 8. He shall communicate at every session, by message to the Legislature, the condition of the State, and recommend such measures as he shall deem expedient.

§ 9. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both Houses, when assembled, the purpose for which they have been convened.

§ 10. In case of disagreement between the two Houses in respect to the time of adjournment, he shall have power to adjourn the Legislature to such time as he may think proper, but not beyond the regular meetings thereof.

§ 11. He shall be Commander-in-Chief of the military and naval

forces of the State, except when they shall be called into the service of the United States.

§ 12. He shall have power, after conviction, to grant reprieves, commutations and pardons, for all crimes and offenses except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations as to the manner of applying for pardon as may be prescribed by law.

Upon conviction for treason he may suspend the execution of the sentence, and report the case to the Legislature at its next meeting, when the Legislature shall either pardon, commute the sentence, direct its execution, or grant a further reprieve.

He shall communicate to the Legislature at every regular session, each case of reprieve, commutation, or pardon granted; stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

§ 13. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially, and shall be called "the Great Seal of the State of Nebraska."

§ 14. All grants and commissions shall be issued in the name, and by the authority of the State of Nebraska, sealed with the Great Seal, signed by the Governor, and countersigned by the Secretary of State.

§ 15. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of Governor, except as herein provided.

§ 16. In case of the impeachment of the Governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Secretary of State, until such disability shall cease, or the vacancy be filled.

§ 17. If, during the vacancy of the office of Governor, the Secretary of State shall be impeached, displaced, resign, die, or be absent from the State, the powers and duties of the office of Governor shall devolve upon the President of the Senate; and should a vacancy occur by impeachment, death, resignation, or absence from the State of the President of the Senate, the Speaker of the House of Representatives shall act as Governor till the vacancy be filled.

§ 18. The Governor shall receive during his continuance in office an annual compensation of one thousand dollars; the Secretary of State, six hundred dollars; the State Treasurer, four hundred dollars; and the State Auditor, eight hundred dollars.

§ 19. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the

objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by their adjournment prevent its return, in which case it shall not be a law.

§ 20. The Secretary, Auditor, and Treasurer of State, shall severally perform such duties as shall be prescribed by law.

JUDICIARY.

SECTION 1. The Judicial power of the State shall be vested in a Supreme Court, District Courts, Probate Courts, Justices of the Peace, and such inferior courts as the Legislature may from time to time establish.

The Supreme Court shall consist of a Chief Justice and two Associate Justices, any two of whom shall constitute a quorum, and shall hold a term of the Supreme Court at the seat of government of the State, annually. Said Supreme Judges shall be elected by the qualified electors of the State, at such time and in such manner as may be provided by law. Said Justices of the Supreme Court shall hold their office for the term of six years from the time of their election, and until their successors shall have been elected and qualified.

§ 2. The State shall be divided into three Judicial Districts, and the District Courts shall be held at such times and places as may be provided by law, and the Legislature shall by law assign the Justices to hold District Courts in the several districts: *Provided*, That until the Legislature shall have provided by law, the Governor shall have authority to make such assignment.

§ 3. The Supreme Court shall have appellate jurisdiction only, except in cases relating to revenue, mandamus, *quo warranto*, *habeas corpus*, and such cases of impeachment as may be required to be tried before it; and both the Supreme and District Courts shall have both chancery and common law jurisdiction.

§ 4. The jurisdiction of the several courts herein provided for, both appellate and original, shall be as fixed by law: *Provided*, That Pro-

bate Courts, Justices of the Peace, or any inferior court that may be established by the Legislature, shall not have jurisdiction in any matter wherein the title or boundaries of land may be in dispute. Nor shall either of the courts mentioned in this proviso have power to order or decree the sale or partition of real estate: *And Provided, further,* That Justices of the Peace, and such inferior courts as may be established by the Legislature, shall not have jurisdiction when the debt or sum claimed shall exceed one hundred dollars, and the jurisdiction of the District and Probate Courts, and Justices of the Peace, shall be uniform throughout the State.

§ 5. Probate Judges, Justices of the Peace, and persons holding inferior courts, herein authorized to be established by the Legislature, shall be elected by the electors of the several districts for which they may be elected in the manner and time fixed by law.

§ 6. The salary of the Justices of the Supreme Court shall be two thousand dollars each per annum, and no more; and all other Judicial officers shall be paid for their services in fees to be prescribed by law.

§ 7. The Legislature shall by law provide that on the entry or commencement of any suit in the District Court, the party so commencing or entering such suit, shall, before the same is so commenced or entered, pay to the Clerk of said District Court the sum of five dollars; and in like manner on the entry or commencement of any suit in the Supreme Court, shall pay the sum of ten dollars to the Clerk thereof, which money so paid, shall be for the use of the State, and shall be paid by said Clerks to the proper offices designated by law, as by law may be required; which money so received shall be held and esteemed as a Judiciary fund, and to be applied in payment of the salaries of the Justices of the Supreme Court. Which amounts so paid shall be taxed as costs against the unsuccessful party, and collected as other costs: *Provided,* The Legislature may provide, by law, for dispensing with the payment of said sums of money in cases where the party so commencing or entering suit shall be really unable to pay the same, and the amount shall in all cases be taxed and collected as other costs: *Provided, also,* That the Legislature shall have power whenever the amount so received shall exceed the salaries of the Judges of the Supreme Court, to reduce the amount to be paid so that the gross amount will not exceed such salaries.

§ 8. The Legislature may, after the year one thousand eight hundred and seventy-five, increase the number of Justices of the Supreme Court, and the Judicial Districts of the State.

§ 9. In all cases heard before the Supreme Court, as an appellate court, the Justice who may have tried such cause in the court below, shall not participate in the decision thereof until the other two

Justices, if present, shall have failed to agree in the decision of such cause.

§ 10. All process, writs, and other proceedings, shall run in the name of "*The People of the State of Nebraska.*"

FINANCE.

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

§ 2. The credit of the State shall never be given or loaned in aid of any individual, association or corporation.

§ 3. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year, and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the expenses of such ensuing year.

§ 4. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed fifty thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each House, to be taken by yeas and nays, shall be necessary to the passage of such laws; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within ten years from the passage of such law; and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished until the principal and interest of such debt shall have been wholly paid.

§ 5. The Legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

§ 6. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of lands or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

EMINENT DOMAIN.

SECTION 1. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as such river shall form a common boundary to the State, and any other State or Territory now or hereafter to be formed and bounded by the same. And the river Missouri, and the navigable waters leading into the Missouri, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax, impost or duty therefor.

§ 2. The title to all lands and other property, which have accrued to the Territory of Nebraska, by grant, gift, purchase, forfeiture, escheat or otherwise, shall vest in the State of Nebraska.

§ 3. The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands, the title to which shall fail from a defect of heirs, shall revert or escheat to the people.

EDUCATION.

SECTION 1. The principal of all funds arising from the sale, or other disposition of lands or other property granted or intrusted to this State for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations. The Legislature shall make such provisions by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but no religious sect or sects shall ever have any exclusive right to, or control of any part of, the school funds of this State.

§ 2. The university lands, school lands, and all other lands which have been acquired by the Territory of Nebraska, or which may hereafter be acquired by the State of Nebraska for educational or school purposes, shall not be aliened or sold for a less sum than five dollars per acre.

CORPORATIONS.

SECTION 1. The Legislature shall pass no special act conferring corporate powers.

§ 2. Corporations may be formed under general laws.

§ 3. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

§ 4. The Legislature shall provide for the organization of cities and incorporated villages by general laws; and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credits, so as to prevent the abuse of such power.

AMENDMENTS.

SECTION 1. If at any time a majority of the Senate and House of Representatives shall deem it necessary to call a Convention to revise or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for members of the Legislature; and if it shall appear that a majority of the electors voting thereon have voted for a Convention, the Legislature shall, at its next session, provide for calling such Convention.

BOUNDARIES.

SECTION 1. The State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri, with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude, to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude, to a point formed by its intersection with the forty-first degree of north latitude, thence west along said forty-first degree of north latitude to a point formed with its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude, to a point formed by its intersection with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Keha Paha river; thence down the middle of the channel of said river, with its meanderings, to its junction with the Niobrara river; thence down the middle of the channel of said Niobrara river; and following the meanderings thereof to its junction with the Missouri river; thence down the middle of the channel of said Missouri river, and following the meanderings thereof to the place of beginning.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change of Territorial government to a State government, it is declared that all rights, suits, actions, prosecutions, judgments, recognizances, claims and contracts, both as respects persons and bodies corporate, shall continue and be enforced as if no change had taken place, and all

laws now in force shall remain in force until altered, amended, or repealed by the Legislature: *Provided*, Wherever the word Territory shall occur, it shall be construed to mean State, whenever it may be necessary, in order that such laws may conform to the State government.

§ 2. All debts, fines, penalties, recognizances, and forfeitures, due and owing to the Territory of Nebraska, shall inure to the benefit of the State, and all obligations and bonds to the Territory of Nebraska, or any office thereof, shall be esteemed and taken as due and owing to the State of Nebraska, and may be in such manner enforced.

§ 3. The Governor and all other officers of the Territorial government, shall continue to discharge and exercise the duties of their respective offices, until superseded by the provisions of this Constitution or the officers appointed or elected by authority of its provisions.

§ 4. The first election for Governor, Secretary of State, Auditor of State, one Representative to Congress, the Justices to the Supreme Court, the members of the Senate and House of Representatives, shall be held on the second day of June, one thousand eight hundred and sixty-six, at the places, and in the manner now prescribed by law for general elections. The members of the Senate shall be elected in and from the same districts that are now prescribed by law for Councilmen Districts. The members of the House of Representatives shall be elected in and from the same districts that are now prescribed by law for members to the House of Representatives of the Territory of Nebraska, and all the officers mentioned, to wit.: Senators and Representatives shall hold their offices until the first Monday in January, A. D. 1867; Governor, Secretary of State, State Auditor and Treasurer, until the second Monday in January, A. D. 1869, and until their successors are elected and qualified; the Supreme Judges until the first day of January, A. D. 1873.

§ 5. The first session of the Legislature shall be held at the Capitol in the city of Omaha, commencing on the fourth day of July, A. D. 1866.

§ 6. This Constitution is formed, and the State of Nebraska asks to be admitted into the Union on an equal footing with the original States, on the condition and faith of the terms and propositions stated and specified in an act of Congress, approved April nineteenth, 1864, authorizing the people of the Territory to form a Constitution and State government; the people of the State of Nebraska hereby accepting the conditions in said act specified.

§ 7. The foregoing Constitution shall be submitted to the electors of the Territory of Nebraska at an election to be held on the second day of June, in the year one thousand eight hundred and sixty-six.

in the several election districts of this Territory. The ballots at such elections shall be written or printed as follows:

Those in favor of the Constitution, "*For the Constitution.*"

Those against the Constitution, "*Against the Constitution.*"

The polls at said elections shall be opened at the hour of nine o'clock A. M., and closed at six o'clock P. M., and the returns of said elections shall be made to the acting Governor of the Territory, who, together with the United States District Attorney and Chief Justice of the Territory, or any two of them, shall canvass the same, and if a majority of the legal votes shall be cast for said Constitution, the same shall be the Constitution of Nebraska.

Said Governor shall certify the same to the President of the United States: *Provided*, That the said election shall be conducted and the returns made in the same manner and under the same regulations as are prescribed by law in the case of the election of Territorial officers.

The election returns for the Governor, Secretary of State, Auditor, Treasurer, and Supreme Judges, shall be made to the same offices, and the canvass of such returns made in the same manner, as is now prescribed by law for Delegate in Congress.

Resolved, by the Council and House of Representatives of the Territory of Nebraska, That the foregoing Constitution be submitted to the qualified electors of the Territory, for their adoption or rejection, at an election hereby authorized to be held at the time and in the manner specified in the seventh section of the Schedule of said Constitution, and that the returns and canvass of the votes cast at said election be made as in said section prescribed.

JAMES G. MEGEATH,

Speaker of the House of Representatives.

C. P. MASON,

President of the Council.

Approved, *February 9th*, 1866.

ALVIN SAUNDERS,

Governor of the Territory of Nebraska.

[The Territorial Legislature of Nebraska having framed the Constitution of that State, the names of members of each House are here appended.]

Legislative Council.

J. Albertson,
Edwin A. Allen,
O. P. Bayne,
G. B. Bennett,
C. Blanchard,

J. W. Chapman,
Thos. L. Griffey,
A. S. Holladay,
B. E. B. Kennedy,

J. N. McCarland,
O. P. Maron,
J. G. Miller,
John R. Porter.

House of Representatives.

G. C. Barnum,
Jno. Benton,
John Biggs,
C. H. Brown,
M. R. Cody,
S. M. Conoyer,
A. J. Critchfield,
M. Crouch,
George Crow,
O. W. Dunning,
W. H. Ely,

E. L. Emery,
Amos Gates,
R. Hedges,
John Hefferman,
H. M. Hitchcock,
J. McF. Hogood,
J. T. A. Hoover,
Wm. Imlay,
E. J. Johnson,
S. M. Kirkpatrick,
M. Langdon,

W. N. McCandlish,
S. Maxwell,
S. Petit,
W. B. Phillips,
J. W. Pickard,
N. S. Porter,
J. W. Taylor,
F. A. Tisdell,
C. F. Walker,
G. P. West.

APPENDIX.

The following sections of the Enabling Act passed by Congress, approved April 19th, 1864, and referred to in the foregoing Schedule, contain the donations offered to the State of Nebraska :

SECTION 8. *And be it further enacted*, That provided the State of Nebraska shall be admitted into the Union, in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State be selected and located by direction of the Legislature thereof, on or before the first day of January, Anno Domini eighteen hundred and sixty-eight, shall be and they are hereby granted, in legal subdivisions of not less than one hundred and sixty acres, to said State, for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the Legislature shall prescribe.

§ 9. *And be it further enacted*, That fifty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be and they are hereby granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison, in the manner aforesaid.

§ 10. *And be it further enacted*, That seventy-two other sections of land shall be set apart and reserved for the use and support of a State University, to be selected in manner as aforesaid, and to be appropriated and applied as the Legislature of said State may prescribe, for the purpose named, and for no other purpose.

§ 11. *And be it further enacted*, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the Governor thereof within one year after the admission of the State; and when so selected, to be used or disposed of on such terms, conditions and regulations as the Legislature shall direct: *Provided*, That no salt

spring or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall, by this act, be granted to said State.

§ 12. *And be it further enacted,* That five per centum of the proceeds of the sales of all public lands lying within said State, which have been or shall be sold by the United States prior or subsequent to the admission of said State into the Union, after deducting all expenses incident to the same, shall be paid to the said State for the support of common schools.



NEVADA.

This State is included within the territory acquired from Mexico by the treaty of February 2, 1848. On the 9th of September, 1850, it was included in the "Territory of Utah."

The "Territory of Nevada" was organized March 2, 1861, and at first embraced all of Utah Territory west of the meridian of 39° west from Washington. It was proposed, with the consent of California, to extend the western boundary of the Territory westward to the dividing ridge separating the waters of Carson valley from those flowing into the Pacific; but the consent of that State was not obtained. The eastern boundary was extended to 38° west longitude (adding a tract one degree wide) July 14, 1862.

The boundaries, as originally defined, were not to be construed as including any lands belonging to Indian tribes, without the consent of such tribe, but such Indian lands were to be excepted out of the boundaries of the Territory, and to form no part thereof, until consent should be signified to the President. The Territory might subsequently be divided into two or more Territories, should Congress so determine; or portions might be annexed to any other Territory or State. The seat of government was to be fixed by the Territorial Legislature at its first session.

In 1863 the people, without an Enabling Act, undertook to form a State government. The question was submitted on the 2d of September of that year, and resulted in a vote of 6,660 *for* and 1502 *against* the proposed measure. A Convention was elected, and on the 11th of December, 1863, it closed its labors, and presented a draft of a Constitution, which was rejected by the people by a heavy majority. The principal arguments used in defeating it were, that the Territory was too feeble to support the expenses of a State government, and that the measure should be delayed until, by an increase of material wealth and population, they might be in better condition to assume these burdens. This Constitution, although rejected at that time, was made the basis of the one subsequently adopted.

An Enabling Act was passed March 21, 1864, under which the inhabitants were authorized to elect Delegates in June, to meet in Convention on the first Monday of July for the purpose of forming a State Constitution. This, if agreed upon, was to be submitted to the people for their ratification on the second Tuesday of October, 1864, but this last date was subsequently changed to the first Wednesday of September.

Under this authority a Convention of thirty-nine Delegates met at Carson City, July 4, 1864, and, on the 27th of that month, agreed upon a Constitution. This was ratified by a vote of 10,375 to 1,284 (not including the returns of Lander county, which were not seasonably returned), and on the 31st of October 1864, the State was declared admitted into the Union by a proclamation of the President.

By an act of Congress, approved May 5, 1866, the eastern boundary of Nevada was carried one degree further east, and there was also added, at the same time, all west of 37° longitude, and northwest of the Colorado river, the former being taken from Utah, and the latter from Arizona Territory.

CONSTITUTION OF NEVADA, 1864.

SUMMARY.

ARTICLES.

- Preliminary Action.
- I. Declaration of Rights.
- II. Right of Suffrage.
- III. Distribution of Powers.
- IV. Legislative Department.
- V. Executive Department.
- VI. Judicial Department.
- VII. Impeachment and Removal from Office.
- VIII. Municipal and other Corporations.
- IX. Finance and State Debt.
- X. Taxation.
- XI. Education.
- XII. Militia.
- XIII. Public Institutions.
- XIV. Boundary.
- XV. Miscellaneous Provisions.
- XVI. Amendments.
- XVII. Schedule.
- Election Ordinance.
- Ordinances.

PRELIMINARY ACTION.

Preamble reciting requirements of Congress.
Resolution declaring authority.

ORDINANCE.

Adopted as irrevocable without consent of United States:

1. Slavery prohibited.
2. Religious toleration guaranteed.
3. Right to public lands of United States disclaimed—lands of non-residents not to be taxed higher than those of residents—no tax to be laid on property of United States.

PREAMBLE.

ARTICLE I.—*Declaration of Rights.*

SECTIONS.

1. Men naturally free and equal—inalienable rights.
2. Origin of political power—purpose of government paramount allegiance to Federal Government.
3. Right of trial by jury—may be waived—three-fourths may render verdict in civil cases—proviso.
4. Religious freedom—not to excuse licentiousness.
5. Privilege of writ of *habeas corpus*.
6. Excessive bail or fines, cruel punishments—detention of witnesses.
7. Right of bail.
8. Trial by impeachment—exceptions—rights of persons accused of crime—second trial—witness against one's self—trial to be legal—private property for public use—cases of public peril.
9. Freedom of speech and of the press—trial of libels.
10. Right of assembling and of petitioning.
11. Military to be subordinate to civil power—standing armies—limit of appropriations therefor.

SECTIONS.

12. Quartering of soldiers.
13. Representation to be based upon population.
14. Rights of debtors—imprisonment for debt.
15. Attainder, *ex post facto* laws—contracts.
16. Rights of resident foreigners.
17. Slavery prohibited.
18. Exemption from illegal seizures and searches.
19. Treason defined—how proved.
20. Enumerated rights not impaired.

ARTICLE II.—*Right of Suffrage.*

1. Qualifications of voters—persons convicted in other States and those who have borne arms against United States excluded—other exclusions.
2. Persons in service of United States, etc., not thereby to gain right of voting.
3. Conditions under which foregoers may vote—proviso—returns of election.
4. Civil process not to be served on election day.
5. Elections by people to be by ballot—in Legislature to be *viva voce*.
6. Registration of voters—protection of elections.
7. Poll tax to be levied—how applied.
8. Persons allowed to vote on adoption of Constitution.

ARTICLE III.—*Distribution of Powers.*

1. Three departments—to be kept distinct.

ARTICLE IV.—*Legislative Department.*

1. Legislative power, how vested—sessions to be held at seat of government.
2. Sessions biennial—when to begin—special sessions.
3. Members of Assembly to be chosen biennially—election when held—term.
4. Senators—term.
5. Senators and members to be electors—relative number of Senators.
6. Powers of each House.
7. Power over persons not members.
8. Senators and members not eligible to other office—except by election.
9. Officers under United States not eligible.
10. Defaulters and those convicted of bribery not eligible—these crimes to be punished.
11. Privilege of members.
12. Vacancies, how filled.
13. Quorum—power to compel attendance.
14. Journals—yeas and nays when recorded.
15. To sit with open doors—adjournments.
16. Origin of bills—may be amended.
17. Laws to embrace but one subject—to be stated in title—not to be amended by title.
18. Passage of bills—reading at final passage—majority elected must concur—how signed.
19. Payments from the treasury—reports of receipts and expenses.

SECTIONS.

20. Special laws upon certain subjects not allowed.
21. General laws for cases enumerated—to be uniform.
22. Suits against the State.
23. Style of laws—no law except by bill.
24. Lotteries and sale of lottery tickets forbidden.
25. System of county and township government to be established.
26. Board of County Commissioners.
27. Exclusion from jury service—prohibition of undue influence.
28. No money on salary to be paid except by law.
29. Limit of first and subsequent sessions.
30. Homesteads to be exempted from forced sale—exception in cases of lien—consent of wife required in sales.
31. Property of married women—separate property of a wife.
32. Election of county officers—clerks of courts of record.
33. Pay of members—not to be increased during term—incidental expenses—additional pay of Speaker.
34. Election of Senators in Congress—when special session may be called for this purpose.
35. Governor to sign bills—veto power limited.

ARTICLE V.—*Executive Department.*

1. Supreme executive power, how vested.
2. Election of Governor—term.
3. Qualification of Governor.
4. Returns of election—case of equal vote.
5. Commander-in-chief.
6. To transact executive business—may require information of officers.
7. To see that the laws are executed.
8. To fill vacancies in office.
9. May convene Legislature on extraordinary occasion—no other business to be done at such session.
10. To communicate by message.
11. May adjourn Legislature in certain case.
12. Not to hold office under United States.
13. Power to suspend fines and to reprove—to report these to Legislature.
14. Pardon power, how exercised.
15. Great Seal—to be kept by Governor.
16. Grants and commissions, how sealed and signed.
17. Lieutenant-Governor to be elected—term—President of Senate—casting vote—case of vacancy in offices of Governor and Lieutenant-Governor.
18. Lieutenant-Governor when to act as Governor—case of absence of Governor at head of military forces.
19. State officers—term—any elector eligible.
20. Duties of Secretary of State.
21. Board of State Prison Commissioners—powers—Board of Examiners—to examine all claims.
22. State officers to perform such other duties as law may require.

ARTICLE VI.—*Judicial Department.*

1. Power, how vested—other courts may be created.
2. Supreme Court, how formed—quorum—proviso—election of other Justices.
3. Election of Justices—term—classification.
4. Jurisdiction of Supreme Court—power to issue certain writs.
5. Judicial Districts described—may be altered—District Judges—when elected—terms.
6. Jurisdiction of District Courts—power to issue certain writs.

SECTIONS.

7. Terms of courts—case of formation of new counties.
8. Justices of Peace—jurisdiction—appeals.
9. Municipal courts to be regulated by law.
10. Judicial offices, except Justices of Peace, not to receive fees.
11. Judges ineligible to offices other than judicial.
12. Judges not to charge juries as to fact.
13. Style of process—authority of prosecutions.
14. To be but one form of civil action—law and equity may be administered in same action.
15. Salary of Judges—not to be increased during term—District Judges to be paid by counties.
16. Court fees or taxes—to be applied toward salaries of Judges.
17. Leaves of absence to Judges limited.
18. Judicial officers to continue until election of others.

ARTICLE VII.—*Impeachment and Removal from Office.*

1. Assembly may impeach—trial by Senate.
2. Officers liable to impeachment—party liable to further trial by law.
3. Removal of officers for causes not sufficient for impeachment.
4. Removal of civil officers other than those mentioned in this article.

ARTICLE VIII.—*Municipal and other Corporations.*

1. No special act of incorporation allowed—general laws to be provided.
2. Property of corporations taxable—exceptions.
3. Dues from corporations—corporators not individually liable.
4. Corporations under territorial laws.
5. May sue and be sued.
6. Bank notes prohibited—except federal and National notes.
7. Right of way to be paid for.
8. Organization of cities and towns by general laws—restriction upon their credit.
9. State not to donate, or loan money to corporations—nor subscribe to stock—exceptions.
10. Counties, cities, and towns not to become stockholders—except to railroads.

ARTICLE IX.—*Finance, and State Debt.*

1. Beginning of fiscal year.
2. Current expenses of State—to be provided for.
3. State debt allowed—limited to \$300,000—how to be paid—cases when it may be more.
4. State not to assume local debts—exceptions.

ARTICLE X.—*Taxation.*

1. Assessment and taxation to be uniform—all property to be assessed, with exceptions.

ARTICLE XI.—*Education.*

1. Sciences, etc., to be encouraged—Superintendent of Public Instruction—term.
2. Schools to be on uniform system—schools to be maintained.
3. School funds, how formed—how invested.
4. State University—Board of Regents.
5. Normal schools—grades of schools—teachers to take oath.
6. One and a half mill tax for university and schools—may be reduced in ten years.

SECTIONS.

7. Board of Regents—powers—election.
8. Board to organize a mining department—proviso.
9. No sectarian instruction allowed in State schools.

ARTICLE XII. — *Militia.*

1. Militia to be organized and disciplined.
2. Governor may call out militia in certain cases.

ARTICLE XIII. — *Public Institutions.*

1. Benevolent institutions to be formed.
2. State Prison to be established—House of Refuge.
3. Counties to support the aged and unfortunate.

ARTICLE XIV. — *Boundary.*

1. Description of boundary—proviso in case of extension.

ARTICLE XV. — *Miscellaneous Provisions.*

1. Seat of government fixed at Carson City.
2. Oath of office.
3. None but voters eligible to office—dueling to disqualify.
4. Perpetuities not allowed—exception.
5. General election, when held.
6. Limit of number of members of both Houses.
7. County officers to hold offices at county seats.
8. Publication of laws—of decisions—to be free for any to publish—judgments, when to take effect.
9. Increase of salaries—not to affect those in office.
10. Officers not otherwise provided to be by law.
11. Tenure of offices—when held during pleasure of appointing power—not more than four years.
12. State officers to keep offices at seat of government.
13. Census to be taken in 1867, 1875, and every ten years after—Federal census also used as basis of representation.
14. A plurality of votes to constitute a choice.

ARTICLE XVI. — *Amendments.*

1. How made and ratified.
2. A Convention, when and how called.

ARTICLE XVII. — *Schedule.*

1. All rights, actions, etc., to continue—all process under Territory valid as if issued by State.
2. Laws of Territory to continue until they expire, or are changed.
3. Fines, penalties, etc., of Territory to inure to State.

SECTIONS.

4. Recognizances, etc., to remain valid—records and property to be transferred—prosecutions to continue as if no change.
5. Salary of Governor—of other State officers—mileage.
6. Present apportionment of Senators and Assemblymen.
7. Debts of Territory assumed by State.
8. Term of officers under first election.
9. Terms of Senators—classification—proviso.
10. Terms of Senators and Members of Assembly at first election.
11. Terms of those chosen at second election.
12. First session, when to begin—second and third sessions.
13. County and township officers, how to continue—proviso in special cases.
14. Governor and other State officers, how to continue—proviso.
15. Terms of Supreme Court, as Judges may appoint—first terms under State.
16. Pay of Judges fixed.
17. Salaries of Judges may be altered by law.
18. State officers, when to qualify.
19. Judges, when to qualify.
20. Officers of State and Judges to be commissioned by Governor of Territory in first instance—to take oaths—official bonds—other bonds.
21. Support of county, town and city officers.
22. Vacancies in office of a Justice of Supreme Court, District Judge or other State officer.
23. Probate cases to be transferred.
24. No tax over one per centum to be levied during first three years—special tax.
25. County of Roof attached to Washoe for judicial and other purposes.
26. Publication of Debates of Convention—pay of Reporter.

ELECTION ORDINANCE. — PREAMBLE. — ORDINANCE.

1. Governor to submit Constitution to people at given time.
2. Persons entitled to vote.
3. Persons in military service allowed to vote.
4. Elections, how held.
5. Returns of election, how made.
6. Board of Canvassers—to publish results—to issue certificates of election—Constitution, when to take effect.
7. Lists of soldiers entitled to vote.
8. Lists to be classified by Governor, and sent to regiments, etc.
9. Elections, when and how held in camp.
10. Ballots, how worded—to be signed.
11. Ballots to be sealed up and sent to Governor.
12. Form of return by military officers—how certified.
13. Governor to furnish blanks.
14. Provision as to soldiers' votes to apply to future elections.

PRELIMINARY ACTION.

Whereas, The act of Congress, approved March 21st, A. D. 1864, "To enable the People of the Territory of Nevada to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States," requests that the members of the Convention for framing the Constitution

shall, after organization, on behalf of the people of said Territory, adopt the Constitution of the United States, therefore, be it

Resolved, That the members of this Convention, elected by the authority of the aforesaid Enabling Act of Congress, as assembled in Carson City, the Capitol of said Territory of Nevada, and immediately subsequent to its organization, do adopt, on behalf of the people of said Territory, the Constitution of the United States.

ORDINANCE.

In obedience to the requirements of an Act of the Congress of the United States, approved March 21st, A. D. 1864, to enable the people of Nevada to form a Constitution and State Government, this Convention, elected and convened in obedience to said Enabling Act, do ordain as follows—and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Nevada:

First. That there shall be in this State neither slavery nor involuntary servitude, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested, in person or property, on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare, that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to residents thereof; and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

PREAMBLE.

We, the people of the State of Nevada, grateful to Almighty God for our freedom, in order to secure its blessings, insure domestic tranquillity, and form a more perfect Government, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending

life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal government, in the exercise of all its Constitutional powers as the same have been or may be defined by the Superior Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert or resist the supreme authority of the United States. The Constitution of the United States confers full powers on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the States, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

§ 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases, in the manner to be described by law; and in civil cases if three-fourths of the jury agree upon a verdict, it shall stand and have the same force and effect as a verdict by the whole jury: *Provided*, The Legislature, by a law passed by a two-thirds vote of all the members elected to each branch thereof, may require a unanimous verdict notwithstanding this provision.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this State.

§ 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

§ 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

§ 7. All persons shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident or the presumption great.

§ 8. No person shall be tried for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of the militia when

in actual service, and the land and naval forces in time of war or which the State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the Legislature), except on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation having been first made or secured, except in cases of war, riot, fire, or great public peril, in which cases compensation shall be afterward made.

§ 9. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published for good motives and for justifiable ends, the party shall be acquitted or exonerated.

§ 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

§ 11. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and in time of war no appropriation for a standing army shall be for a longer time than two years.

§ 12. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

§ 13. Representation shall be apportioned according to population.

§ 14. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for payment of any debts or liabilities hereafter contracted; and there shall be no imprisonment for debts except in cases of fraud, libel or slander, and no person shall be imprisoned for a militia fine in time of peace.

§ 15. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

§ 16. Foreigners who are or who may hereafter become *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

§ 17. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

§ 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things, to be seized.

§ 19. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

§ 20. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States, not laboring under the disabilities named in this Constitution, of the age of twenty-one years and upward, who shall have actually and not constructively resided in the State six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election: *Provided*, That no person who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no person who, after arriving at the age of eighteen years, shall have voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate States, or either of them, unless an amnesty be granted to such by the Federal Government, and no idiot or insane person shall be entitled to the privileges of an elector.

§ 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

§ 3. The right of suffrage shall be enjoyed by all persons otherwise entitled to the same, who may be in the military or naval service of the United States: *Provided*, The votes so cast shall be made to apply

to the county and township of which said voters were *bona fide* residents at the time of their enlistment: *Provided, further*, That the payment of a poll-tax, or a registration of such voters shall not be required as a condition to the right of voting. Provision shall be made by law regulating the manner of voting, holding elections, and making returns of such elections, wherein other provisions are not contained in this Constitution.

§ 4. During the day on which any general election shall be held in this State, no qualified electors shall be arrested by virtue of any civil process.

§ 5. All elections by the people shall be by ballot, and all elections by the Legislature, or by either branch thereof, shall be *viva voce*.

§ 6. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for the ascertainment by proper proofs of the persons who shall be entitled to the right of suffrage, as hereby established; to preserve the purity of election, and to regulate the manner of holding and making returns of the same; and the Legislature shall have power to prescribe by law any other or further oaths as may be deemed necessary as a test or electoral qualification.

§ 7. The Legislature shall provide by law for the payment of an annual poll-tax of not less than two nor exceeding four dollars from each male person resident in the State between the age of twenty-one and sixty years, uncivilized American Indians excepted, one-half to be applied for State and one-half for county purposes; and the Legislature may, in its discretion, make such payment a condition to the right of voting.

§ 8. All persons qualified by law to vote for Representatives to the General Assembly of the Territory of Nevada, on the twenty-first day of March, A. D. 1864, and all other persons who may be lawful voters in the said Territory on the first Wednesday of September next following, shall be entitled to vote directly upon the question of adopting or rejecting this Constitution.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Nevada shall be divided into three separate Departments—the Legislative, the Executive and the Judicial; and no person charged with the exercise of powers properly belonging to one of these Departments shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative authority of this State shall be vested in a Senate and Assembly, which shall be designated "The Legislature of the State of Nevada," and the session, of such Legislature shall be held at the seat of government of the State.

§ 2. The sessions of the Legislature shall be biennial, and shall commence on the first Monday of January next ensuing the election of members of the Assembly, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

§ 3. The members of the Assembly shall be chosen biennially, by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November, and their term of office shall be two years from the day next after their election.

§ 4. Senators shall be chosen at the same time and places as members of the Assembly, by the qualified electors of their respective districts, and their term of office shall be four years from the day next after their election.

§ 5. Senators and members of Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

§ 6. Each House shall judge of the qualifications, elections and returns of its own members, choose its own officers (except the President of the Senate), determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected, expel a member.

§ 7. Either House during the session, may punish by imprisonment, any person not a member, who shall have been guilty of disrespect to the House by disorderly or contemptuous behavior in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

§ 8. No Senator or Member of Assembly shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under the State which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

§ 9. No person holding any lucrative office under the government of the United States, or any other power, shall be eligible to any civil office of profit under this State: *Provided*, That Postmasters,

whose compensation does not exceed five hundred dollars per annum, or Commissioners of Deeds, shall not be deemed as holding a lucrative office.

§ 10. Any person who shall be convicted of the embezzlement or defalcation of the public funds of this State, or who may be convicted of having given or offered a bribe to secure his election or appointment to office, or received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of profit or trust in this State; and the Legislature shall, as soon as practicable, provide by law for the punishment or such defalcation, bribery or embezzlement, as a felony.

§ 11. Members of the Legislature shall be privileged from arrest on civil process during the session of the Legislature, and for fifteen days next before the commencement of each session.

§ 12. When vacancies occur in either House, the Governor shall issue writs of election to fill such vacancy.

§ 13. A majority of all the members elected to each House shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

§ 14. Each House shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either House on any question shall, at the desire of any three members present, be entered on the journal.

§ 15. The doors of each House shall be kept open during its session, except the Senate while sitting in executive session, and neither shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be holding their sessions.

§ 16. Any bill may originate in either House of the Legislature, and all bills passed by one may be amended in the other.

§ 17. Each law enacted by the Legislature shall embrace but one subject, and matter properly connected therewith, which subject shall be briefly expressed in the title, and no law shall be revised or amended by reference to its title only; but, in such case, the act as revised, or section as amended, shall be re-enacted and published at length.

§ 18. Every bill shall be read by sections, on three several days, in each House, unless, in case of emergency, two-thirds of the House, where such bill may be pending, shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage, shall in no case be dispensed with, and the vote on the final

passage of every bill, or joint resolution, shall be taken by yeas and nays, to be entered on the journals of each House; and a majority of all the members elected to each House shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed, shall be signed by the presiding officers of the respective Houses, and by the Secretary of the Senate and Clerk of the Assembly.

§ 19. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws of every regular session of the Legislature.

§ 20. The Legislature shall not pass any special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of Justices of the Peace and of Constables.

For the punishing of crimes or misdemeanors.

Regulating the practice of Courts of Justice.

Providing for changing the venue in civil and criminal cases.

Granting divorces.

Changing the names of persons.

Vacating roads, town plats, streets, alleys and public squares.

Summoning and impaneling grand and petit juries, and providing for their compensation.

Regulating county and township business.

Regulating the election of county and township officers.

For the assessment and collection of taxes for State, county and township purposes.

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting.

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities.

§ 21. In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

§ 22. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this Constitution.

§ 23. The enacting clause of every law shall be as follows: "*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows*"—and no law shall be enacted except by bill.

§ 24. No lottery shall be authorized by this State, nor the sale of lottery tickets be allowed.

§ 25. The Legislature shall establish a system of county and township government, which shall be uniform throughout the State.

§ 26. The Legislature shall provide by law for the election of a Board of County Commissioners in each county, and such County Commissioners shall jointly and individually perform such duties as may be prescribed by law.

§ 27. Laws shall be made to exclude from serving on juries all persons not qualified electors of this State, and all persons who shall have been convicted of bribery, perjury, forgery, larceny, or other high crimes, unless restored to civil rights; and laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

§ 28. No money shall be drawn from the State treasury as salary or compensation to any officer or employee of the Legislature, or either branch thereof, except in cases where such salary or compensation has been fixed by a law in force prior to the election or appointment of such officer or employee of the Legislature, or either branch thereof, at such session of the Legislature.

§ 29. The first regular session of the Legislature under the Constitution may extend to ninety days, but no subsequent regular session shall exceed sixty days, nor any special session convened by the Governor exceed twenty days.

§ 30. A homestead, as provided by law, shall be exempt from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife where that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife; and laws shall be enacted providing for the recording of such homestead within the county in which the same shall be situated.

§ 31. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the wife's separate property.

§ 32. The Legislature shall provide for the election by the people of a Clerk of the Supreme Court, County Clerk, County Recorder, who shall be *ex officio* County Auditor, District Attorneys, Sheriffs, County Surveyors, Public Administrators, and other necessary officers, and fix by law their duties and compensation. County Clerks shall

be *ex officio* Clerks of the courts of record and of the Board of County Commissioners in and for their respective counties.

§ 33. The members of the Legislature shall receive for their services a compensation to be fixed by law, and paid out of the public treasury, but no increase of compensation shall take effect during the term for which the members of either House shall have been elected: *Provided*, That an appropriation may be made for the payment of such actual expenses as the members of the Legislature may incur for postage, express charges, newspapers and stationery, not exceeding the sum of sixty dollars for any general or special session, to each member: *And furthermore provided*, That the Speaker of the Assembly, and Lieutenant-Governor and President of the Senate; shall each, during the time of their actual attendance as such presiding officers, receive an additional allowance of two dollars per diem.

§ 34. In all elections for United States Senators, such elections shall be held in joint convention of both Houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such Senator, to elect his successor. If a vacancy in such senatorial representation from any cause occur, it shall be the duty of the Legislature then in session, or at the succeeding session thereof, to supply such vacancy. If the Legislature shall at any time, as herein provided, fail to unite in a joint convention within twenty days after the commencement of the session of the Legislature for the election of such Senator, it shall be the duty of the Governor, by proclamation, to convene the two Houses of the Legislature in joint Convention, within not less than five days, nor exceeding ten days from the publication of his proclamation, and the joint Convention, when so assembled, shall proceed to elect the Senator as herein provided.

§ 35. Every bill which may be passed by the Legislature, shall, before it becomes a law, be presented to the Governor. If he approves it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which House shall cause such objections to be entered upon its journals, and proceed to reconsider it, if after such reconsideration it again pass both Houses by yeas and nays, by a vote of two-thirds of the members elected to each House, it shall become a law notwithstanding the Governor's objections. If any bill shall not be returned within five days after it shall have been presented to him (Sunday excepted), exclusive of the day on which he received it, the same shall be a law in like manner as if he had signed it, unless the Legislature, by its final adjournment, prevent such return, in which case it shall be a law, unless the Governor, within ten days next after the adjournment (Sundays excepted), shall

file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the Legislature at its next session, in like manner as if it had been returned by the Governor; and if the same shall receive the vote of two-thirds of the members elected to each branch of the Legislature, upon a vote taken by yeas and nays, to be entered upon the journals of each House, it shall become a law.

ARTICLE V:

EXECUTIVE DEPARTMENT

SECTION 1. The Supreme Executive power of this State shall be in a Chief Magistrate who shall be Governor of the State of Nevada.

§ 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Legislature, and shall hold his office for four years from the time of his installation, and until his successor shall be qualified.

§ 3. No person shall be eligible to the office of Governor who is not a qualified elector, and who, at the time of such election, has not attained the age of twenty-five years; and who, except at the first election, under this Constitution, shall not have been a citizen resident of this State for two years next preceding the election.

§ 4. The returns of every election for Governor and other State officers voted for at the general election, shall be sealed up and transmitted to the seat of government, directed to the Secretary of State, and on the third Monday of December succeeding such election, the Chief Justice of the Supreme Court and the Associate Justices, or a majority thereof, shall meet at the office of the Secretary of State, and open and canvass the election returns for Governor and all other State officers, and forthwith declare the result and publish the names of the persons elected. The persons having the highest number of votes for the respective offices shall be declared elected; but in case any two or more have an equal, and the highest number of votes for the same office, the Legislature shall, by joint vote of both Houses, elect one of said persons to fill said office.

§ 5. The Governor shall be Commander-in-Chief of the military forces of this State, except when they shall be called into the military service of the United States.

§ 6. He shall transact all executive business with the officers of the Government, civil and military, and may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices.

§ 7. He shall see that the laws are faithfully executed.

§ 8. When any office shall, from any cause, become vacant, and no

mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election and qualification of the person elected to such office.

§ 9. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both Houses, when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in session.

§ 10. He shall communicate, by message, to the Legislature, at each regular session, the condition of the State, and recommend such measures as he may deem expedient.

§ 11. In case of a disagreement between the two Houses, with respect to the time of adjournment, the Governor shall have the power to adjourn the Legislature to such time as he may think proper: *Provided*, It be not beyond the time fixed for the meeting of the next Legislature.

§ 12. No person shall, while holding any office under the United States government, hold the office of Governor, except as herein expressly provided.

§ 13. The Governor shall have the power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from time of conviction, for all offenses except in cases of impeachment. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. And if the Legislature should fail or refuse to make the final disposition of such case, the sentence shall be enforced at such time and place as the Governor by his order may direct. The Governor shall communicate to the Legislature at the beginning of every session, every case of fine or forfeiture remitted, or reprieve, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of the remission, commutation, pardon or reprieve.

§ 14. The Governor, Justices of the Supreme Court, and Attorney-General, or a major part of them, of whom the Governor shall be one, may, upon such conditions, and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments, and grant pardons after convictions in all cases, except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

§ 15. There shall be a seal of this State, which shall be kept by the Governor and used by him officially, and shall be called the "Great Seal of the State of Nevada."

§ 16. All grants and commissions shall be in the name, and by the authority of the State of Nevada, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

§ 17. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner as the Governor, and his term of office and his eligibility shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of the office, or be absent from the State, the President, *pro tempore*, of the Senate shall act as Governor, until the office be filled or the disability cease.

§ 18. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue Commander-in-Chief of the military forces of the State.

§ 19. A Secretary of State, a Treasurer, a Comptroller, a Surveyor-General, and an Attorney-General, shall be elected at the same time and places, and in the same manner as the Governor. The term of office of each shall be the same as is prescribed for the Governor. Any elector shall be eligible to either of said offices.

§ 20. The Secretary of State shall keep a true record of the official acts of the Legislature and Executive Department of the government, and shall, when required, lay the same, and all matters relative thereof, before either branch of the Legislature.

§ 21. The Governor, Secretary of State, and Attorney-General, shall constitute a Board of State Prison Commissioners, which Board shall have such supervision of all matters connected with the State Prison as may be provided by law. They shall also constitute a Board of Examiners, with power to examine all claims against the State, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claim against the State, except salaries or compensation of officers fixed by law, shall be passed upon by the Legislature without having been considered and acted upon by said Board of Examiners.

§ 22. The Secretary of State, State Treasurer, State Comptroller, Surveyor-General, Attorney-General and Superintendent of Public Instruction, shall perform such other duties as may be prescribed by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The Judicial power of this State shall be vested in a Supreme Court, District Court and in Justices of the Peace. The Legislature may also establish courts for municipal purposes only, in incorporated cities and towns.

§ 2. The Supreme Court shall consist of a Chief Justice and two Associate Justices, a majority of whom shall constitute a quorum: *Provided*, That the Legislature, by a majority of all the members elected to each branch thereof, may provide for the election of two additional Associate Justices, and if so increased, three shall constitute a quorum. The concurrence of a majority of the whole court shall be necessary to render a decision.

§ 3. The Justices of the Supreme Court shall be elected by the qualified electors of the State, at the general election, and shall hold office for the term of six years, from and including the first Monday of January next succeeding their election; *Provided*, That there shall be elected, at the first election under this Constitution, three Justices of the Supreme Court, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and sixty-four, and continue in office thereafter two, four and six years respectively from and including the first Monday of January next succeeding their election. They shall meet as soon as practicable after their election and qualification, and at their first meeting shall determine by lot the term of office each shall fill, and the Justice drawing the shortest term shall be Chief Justice, after which the senior Justice in commission shall be Chief Justice. And in case the commission of any two or more of said Justices shall bear the same date, they shall determine by lot who shall be Chief Justice.

§ 4. The Supreme Court shall have appellate jurisdiction in all cases in equity; also in all cases at law in which is involved the title or right of possession to, or the possession of, real estate or mining claims, or the legality of any tax, impost, assessment, toll or municipal fine, or in which the demand, exclusive of interest or the value of the property in controversy, exceeds three hundred dollars; also in all other civil cases not included in the general subdivisions of law and equity, and also on questions of law alone in all criminal cases in which the offense charged amounts to felony. The court shall also

have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of *habeas corpus* to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any District Court in the State, or before any Judge of said courts.

§ 5. The State is hereby divided into nine Judicial Districts, of which the county of Storey shall constitute the first; the county of Ormsby the second; the county of Lyon the third; the county of Washoe the fourth; the counties of Nye and Churchill the fifth; the county of Humboldt the sixth; the county of Lander the seventh; the county of Douglass the eighth; and the county of Esmeralda the ninth. The county of Roop shall be attached to the county of Washoe for judicial purposes until otherwise provided by law. The Legislature may, however, provide by law for an alteration in the boundaries or division of the districts herein prescribed, and also for increasing or diminishing the number of Judicial Districts and Judges therein. But no such change shall take effect except in case of a vacancy or the expiration of a term of an incumbent of the office. At the first general election under this Constitution there shall be elected, in each of the respective districts (except as in the section hereinafter otherwise provided), one District Judge, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and sixty-four, and until the first Monday of January, A. D. eighteen hundred and sixty-seven; after the said first election, there shall be elected, at the general election which immediately precedes the expiration of the term of his predecessor, one District Judge in each of the respective Judicial Districts (except in the First District as in the section hereinafter provided). The District Judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of four years (excepting those elected at said first election) from and including the first Monday of January next succeeding their election and qualification: *Provided*, That the First Judicial District shall be entitled to and shall have three District Judges, who shall possess co-extensive and concurrent jurisdiction, and who shall be elected at the same times, in the same manner, and shall hold office for the like terms as herein prescribed in relation to the Judges in other Judicial Districts. Any one of said Judges may preside on the impaneling of grand juries, and the presentment and trial and indictments under such rules and regulations as may be prescribed by law.

§ 6. The District Courts in the several Judicial Districts of this State shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title, or the right of possession to, or the possession of real property or mining claim, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy exceeds three hundred dollars; also, in all cases relating to estates of deceased persons, and the persons and estates of minors and insane persons, and of the action of forcible entry and unlawful detainer; and also in all criminal cases not otherwise provided for by law. They shall also have final appellate jurisdiction in cases arising in Justices' Courts, and such other inferior tribunals as may be established by law. The District Courts, and the Judges thereof, shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction; and also, shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective districts.

§ 7. The terms of holding the Supreme Court and District Courts shall be as fixed by law. The terms of the Supreme Court shall be held at the seat of government, and the terms of the District Courts shall be held at the county seats of their respective counties: *Provided*, That in case any county shall hereafter be divided into two or more districts, the Legislature may by law designate the places of holding courts in such districts.

§ 8. The Legislature shall determine the number of Justices of the Peace to be chosen in each city and township of the State, and shall fix by law their powers, duties and responsibilities: *Provided*, That such Justices' Courts shall not have jurisdiction of the following cases, viz.: *First*, Of cases in which the matter in dispute is a money demand or personal property, and the amount of demand, exclusive of interest, or the value of the property exceeds three hundred dollars. *Second*, Of cases wherein the title to real estate, or mining claims, or questions of boundaries to land, is or may be involved; or of cases that in any manner shall conflict with the jurisdiction of the several courts of record in this State: *And, provided further*, That Justices' Courts shall have such criminal jurisdiction as may be prescribed by law; and the Legislature may confer upon said courts jurisdiction concurrent with the District Courts of actions to enforce mechanics' liens, wherein the amount, exclusive of interest, does not exceed three hundred dollars; and, also, of actions for the possession of lands and tenements, where the relation of landlord and tenant exists, or where such possession has been unlawfully or fraudulently

obtained or withheld. The Legislature shall also prescribe by law the manner, and determine the cases in which appeals may be taken from Justices' and other Courts. The Supreme Court, the District Court, and such other courts as the Legislature shall designate, shall be courts of record.

§ 9. Provisions shall be made by law prescribing the powers, duties and responsibilities of any municipal court that may be established in pursuance of section one of this article; and also fixing by law the jurisdiction of said court, so as not to conflict with that of the several courts of record.

§ 10. No judicial officer, except Justice of the Peace and City Recorders, shall receive to his own use any fees or perquisites of office.

§ 11. The Justices of the Supreme Court and the District Judges shall be ineligible to any office, other than a judicial office, during the term for which they shall have been elected, and all elections or appointments of any such judges, by the people, Legislature, or otherwise, during said period, to any office other than judicial, shall be void.

§ 12. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

§ 13. The style of all process shall be "The State of Nevada," and all prosecutions shall be conducted in the name and by the authority of the same.

§ 14. There shall be but one form of civil action, and law and equity may be administered in the same action.

§ 15. The Justices of the Supreme Court and District Judges shall each receive quarterly, for their services, a compensation to be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected, unless a vacancy occurs, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment; and provision shall be made by law for setting apart from each year's revenue a sufficient amount of money to pay such compensation: *Provided*, That District Judges shall be paid out of the treasuries of the counties composing their respective districts.

§ 16. The Legislature, at its first session, and from time to time thereafter, shall provide by law that upon the institution of each civil action and other proceedings, and also upon the perfecting of an appeal in any civil action or proceeding in the several courts of record in this State, a special court fee or tax shall be advanced to the clerks of said courts respectively by the party or parties bringing such action or proceeding, or taking such appeal, and the money so paid in, shall be accounted for by such clerks, and applied toward the payment of

the compensation of the Judges of said courts, as shall be directed by law.

§ 17. The Legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for more than ninety consecutive days shall be deemed to have vacated his office.

§ 18. No judicial officer shall be superseded, nor shall the organization of the several courts of the Territory of Nevada be changed until the election and qualification of the several officers provided for in this article.

ARTICLE VII.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The Assembly shall have the sole power of impeachment. The concurrence of a majority of all the members elected shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. The Chief Justice of the Supreme Court shall preside over the Senate while sitting to try the Governor or Lieutenant-Governor upon impeachment. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

§ 2. The Governor and other State and judicial officers, except Justices of the Peace, shall be liable to impeachment for misdemeanor or malfeasance in office; but judgment in such case shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment, according to law.

§ 3. For any reasonable cause to be entered on the journals of each House, which may or may not be sufficient grounds for impeachment, the Chief Justice and Associate Justices of the Supreme Court and Judges of the District Courts shall be removed from office on the vote of two-thirds of the members elected to each branch of the Legislature, and the Justice or Judge complained of shall be served with a copy of the complaint against him, and shall have an opportunity of being heard in person or by counsel in his defense: *Provided*, That no member of either branch of the Legislature shall be eligible to fill the vacancy occasioned by such removal.

§ 4. Provision shall be made by law for the removal from office of any civil officer, other than those in this article previously specified, for malfeasance or nonfeasance in the performance of his duties.

ARTICLE VIII.

MUNICIPAL AND OTHER CORPORATIONS.

SECTION 1. The Legislature shall pass no special act in any manner relating to corporated powers, except for municipal purposes; but corporations may be formed under general laws, and all such laws may, from time to time, be altered or repealed.

§ 2. All real property or possessory rights to the same, as well as personal property, in this State, belonging to corporations now existing or hereafter created, shall be subject to taxation the same as property of individuals: *Provided*, That the property of corporations formed for municipal, charitable, religious or educational purposes may be exempted by law.

§ 3. Dues from corporations shall be secured by such means as may be prescribed by law: *Provided*, That corporators in corporations formed under the laws of this State, shall not be individually liable for the debts or liabilities of such corporation.

§ 4. Corporations created by or under the laws of the Territory of Nevada shall be subject to the provisions of such laws until the Legislature shall pass laws regulating the same, in pursuance of the provisions of this Constitution.

§ 5. Corporations may sue and be sued in all courts in like manner as individuals.

§ 6. No bank notes or paper of any kind shall ever be permitted to circulate as money in this State, except the federal currency and the notes of banks authorized under the laws of Congress.

§ 7. No right of way shall be appropriated to the use of any corporation until full compensation be first made or secured therefor.

§ 8. The Legislature shall provide for the organization of cities and towns by general laws; and restrict the power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, except for procuring supplies of water.

§ 9. The State shall not donate or loan money on its credit, or subscribe to, or be interested in, the stock of any company, association, or corporation, except corporations formed for educational or charitable purposes.

§ 10. No county, city, town, or other municipal corporation, shall become a stockholder in any joint-stock company, corporation, or association whatever, or loan its credit in aid of any such company, corporation, or association, except railroad corporations, companies, or associations.

ARTICLE IX.

FINANCE AND STATE DEBT.

SECTION 1. Fiscal year shall commence on the first day of January in each year.

§ 2. The Legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing term of two years.

§ 3. For the purpose of enabling the State to transact its business upon a cash basis from its organization, the State may contract public debts; but such debts shall never, in the aggregate, exclusive of interest, exceed the sum of three hundred thousand dollars, except for the purpose of defraying extraordinary expenses as hereinafter mentioned. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein; and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within twenty years from the passage of such law, and shall specially appropriate the proceeds of said taxes to the payment of said principal and interest; and such appropriation shall not be repealed, nor the taxes postponed or diminished, until the principal and interest of said debts shall have been wholly paid. Every contract of indebtedness entered into or assumed, by or on behalf of the State, when all its debts and liabilities amount to said sum before mentioned, shall be void and of no effect, except in cases of money borrowed to repel invasion or suppress insurrection, defend the State in time of war, or, if hostilities be threatened, to provide for public defense.

§ 4. The State shall never assume the debts of any county, town, city or other corporation whatever, unless such debts have been created to repel invasion, suppress insurrection, or to provide for the public defense.

ARTICLE X.

TAXATION.

SECTION 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal, or possessory, except mines and mining claims, the proceeds of which alone shall be taxed, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.

ARTICLE XI.

EDUCATION.

SECTION 1. The Legislature shall encourage, by all suitable means, the promotion of intellectual, literary, scientific, mining, mechanical, agricultural and moral improvement, and also provide for the election by the people, at the general election, of a Superintendent of Public Instruction, whose term of office shall be two years from the first Monday of January, A. D. 1865, and until the election and qualification of his successor, and whose duties shall be prescribed by law.

§ 2. The Legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school-district at least six months in every year, and any school-district neglecting to establish and maintain such a school, or which shall allow instruction of a sectarian character therein, may be deprived of its portion of the interest of the public school fund during such a neglect or infraction, and the Legislature may pass such laws as will tend to secure a general attendance of the children in each school-district upon said public schools.

§ 3. All lands, including the sixteenth and thirty-sixth sections, in every township, donated for the benefit of public schools, in the act of the thirty-eighth Congress, to enable the people of Nevada Territory to form a State government; the thirty thousand acres of public lands granted by an act of Congress, approved July second, eighteen hundred and sixty-two, for each Senator and Representative in Congress, and all proceeds of lands that have been or may be hereafter granted or appropriated by the United States to this State, and also the five thousand acres of land granted to the new States under the act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. eighteen hundred and forty-one, provided that Congress makes provision for or authorizes such division to be made for the purpose herein contained; all estates that may escheat to the State; all of such per cent as may be granted by Congress on the sale of land; all fines collected under the penal laws of the State; all property given or bequeathed to the State for educational purposes; and all proceeds derived from any or all of such sources,—shall be and the same are hereby solemnly pledged for educational purposes, and shall not be transferred to any other fund for any other uses, and the interest thereon shall, from time to time, be apportioned among the several counties in proportion to the ascertained numbers of the persons between the ages of six and eighteen years in the different counties, and the Legislature shall provide for

the sale of floating land warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above mentioned sources in United States bonds or the bonds of this State: *Provided*, That the interest only of the aforesaid proceeds shall be used for educational purposes, and any surplus interest shall be added to the principal sum; *And, Provided further*, That such portions of said interest as may be necessary may be apportioned for the support of the State University.

§ 4. The Legislature shall provide for the establishment of a State University, which shall embrace departments for agriculture, mechanic arts, and mining, to be controlled by a Board of Regents, whose duties shall be prescribed by law.

§ 5. The Legislature shall have power to establish normal schools, and such different grades of schools, from the primary department to the University, as in their discretion they may deem necessary, and all professors in said University, or teachers in said schools, of whatever grade, shall be required to take and subscribe to the oath as prescribed in Article Fifteen of this Constitution. No professor or teacher who fails to comply with the provisions of any law framed in accordance with the provisions of this section shall be entitled to receive any portion of the public moneys set apart for school purposes.

§ 6. The Legislature shall provide a special tax of one-half of one mill on the dollar, of all taxable property in the State, in addition to the other means provided for the support and maintenance of said University and common schools: *Provided*, That at the end of ten years they may reduce said tax to one-quarter of one mill on each dollar of taxable property.

§ 7. The Governor, Secretary of State, and Superintendent of Public Instruction shall, for the first four years, and until their successors are elected and qualified, constitute a Board of Regents, to control and manage the affairs of the University and the funds of the same, under such regulations as may be provided by law. But the Legislature shall, at its regular session next preceding the expiration of the term of office of the said Board of Regents, provide for the election of a new Board of Regents and define their duties.

§ 8. The Board of Regents shall, from the interest accruing from the first funds which come under their control, immediately organize and maintain the said mining department in such manner as to make it the most affective and useful: *Provided*, That all the proceeds of the public lands donated by act of Congress approved July second, eighteen hundred and sixty-two, for a college for the benefit of agriculture, the mechanic arts, and including military tactics, shall be invested by the said Board of Regents in a separate fund, to be appro-

priated exclusively to the benefit of the first named departments to the University, as set forth in section four above, and the Legislature shall provide that if, through neglect or any other contingency, any portion of the fund so set apart shall be lost or misappropriated, the State of Nevada shall replace said amount so lost or misappropriated in said fund, so that the principal of said fund shall remain for ever undiminished.

§ 9. No sectarian instruction shall be imparted or tolerated in any school or University that may be established under this Constitution.

ARTICLE XII.

MILITIA.

SECTION 1. The Legislature shall provide by law for organizing and disciplining the militia of this State, for the effectual encouragement of volunteer corps, and the safe keeping of the public arms.

§ 2. The Governor shall have power to call out the militia to execute the laws of the State, or to repress insurrection or repel invasion.

ARTICLE XIII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

§ 2. A State Prison shall be established and maintained in such a manner as may be prescribed by law, and provision may be made by law for the establishment and maintenance of a House of Refuge for juvenile offenders.

§ 3. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age and infirmities, or misfortunes, may have claim upon the sympathy and aid of society.

ARTICLE XIV.

BOUNDARY.

SECTION 1. The boundary of the State of Nevada shall be as follows: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary line of the State of California; thence in a north-westerly direction

along said eastern boundary line of the State of California to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude, and said eastern boundary line of the State of California to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the afore-said thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning. And whensoever Congress shall authorize the addition to the Territory or State of Nevada of any portion of the Territory on the easterly border of the foregoing defined limits, not exceeding in extent one degree of longitude, the same shall thereupon be embraced within and become part of this State.¹ *And furthermore provided,* That all such territory lying west of and adjoining the boundary line herein prescribed, which the State of California may relinquish to the Territory or State of Nevada, shall thereupon be embraced within and constitute a part of this State.

ARTICLE XV.

MISCELLANEOUS PROVISIONS.

SECTION 1. The seat of government shall be at Carson City; but no appropriation for the erection or purchase of capitol buildings shall be made during the next three years.

§ 2. Members of the Legislature, and all officers, Executive, Judicial, and Ministerial, shall, before they enter upon the duties of their respective offices, take and subscribe to the following oath or affirmation: "I, ———, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and government of the United States, and the Constitution and government of the State of Nevada, against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution, or law of any State, Convention, or Legislature, to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and promise, without any mental reservation or evasion whatsoever. And I do further solemnly swear (or affirm) that I have not fought a duel, nor sent or accepted a challenge to fight a duel, nor been a second to either party, nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance, since the Constitution of the State of Nevada, and that I will not be so engaged or concerned, directly or indirectly,

¹ This was done by an act of Congress, approved on the 5th of May, 1866, at which time a further addition was made on the southern border, as elsewhere noticed.

in or about such duel, during my continuance in office. And further, that I will well and faithfully perform all the duties of the office of ———, on which I am about to enter: (if on oath), so help me God; (if on affirmation), under the pains and penalties of perjury.”

§ 3. No person shall be eligible to any office who is not a qualified elector under this Constitution. No person who, while a citizen of this State, has, since the adoption of this Constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or who has acted as second, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to hold any office of honor, profit, or trust, or enjoy the right of suffrage under this Constitution. The Legislature shall provide by law for giving force and effect to this section.

§ 4. No perpetuities shall be allowed except for eleemosynary purposes.

§ 5. The general election shall be held on the Tuesday next after the first Monday of November.

§ 6. The aggregate number of members of both branches of the Legislature shall never exceed seventy-five.

§ 7. All county officers shall hold their respective offices at the county seat of their respective counties.

§ 8. The Legislature shall provide for the speedy publication of all statute laws of a general nature, and such decisions of the Supreme Court as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person: *Provided*, That no judgment of the Supreme Court shall take effect and be operative until the opinion of the court in such case shall be filed with the clerk of said court.

§ 9. The Legislature may, at any time, provide by law for increasing or diminishing the salaries or compensation of any of the officers whose salary or compensation is fixed in this Constitution: *Provided*, No such change of salary or compensation shall apply to any officer during the term for which he may have been elected.

§ 10. All officers, whose election or appointment is not otherwise provided for, shall be chosen or appointed, as may be prescribed by law.

§ 11. The tenure of any office, not herein provided for, may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment; but the Legislature shall not create any office, the tenure of which shall be longer than four years, except as herein otherwise provided in this Constitution.

§ 12. The Governor, Secretary of State, State Treasurer, State Comptroller, and Clerk of the Supreme Court, shall keep their respective offices at the seat of government.

§ 13. The enumeration of the inhabitants of this State shall be taken under the direction of the Legislature, if deemed necessary, in A. D. eighteen hundred and sixty-seven; A. D. eighteen hundred and seventy-five, and every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States, in A. D. eighteen hundred and seventy, and every subsequent ten years, shall serve as the basis of representation in both Houses of the Legislature.

§ 14. A plurality of votes given at an election by the people shall constitute a choice, when not otherwise provided by this Constitution.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a majority of all the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if in the Legislature next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendments shall become a part of the Constitution.

§ 2. If at any time, the Legislature, by a vote of two-thirds of the members elected to each House, shall determine that it is necessary to cause a revision of this entire Constitution, they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against a Convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a Convention, the Legislature shall, at its next session, provide by law for a Convention, to be holden within six months after the passage of such law; and such Convention shall consist of a number of members not less than both branches of the Legislature.

In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

ARTICLE XVII.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, including counties, towns, and cities, shall continue as if no change had taken place; and all process which may issue under the authority of the Territory of Nevada previous to its admission into the Union as one of the United States, shall be as valid as if issued in the name of the State of Nevada.

§ 2. All laws of the Territory of Nevada, in force at the time of the admission of this State, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the Legislature.

§ 3. All fines, penalties, and forfeitures, accruing to the Territory of Nevada, or to the people of the United States in the Territory of Nevada, shall inure to the State of Nevada.

§ 4. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to, and may be prosecuted in, the name of, the State; and all bonds executed to the Governor of the Territory, or to any other officer or court, in his or their official capacity, or to the people of the United States in the Territory of Nevada, shall pass to the Governor or other officer or court, and his or their successors in office, for the uses therein respectively expressed, and may be sued on, and recovery had accordingly; and all judgment bonds, specialties, choses in action, claims and debts, of whatsoever description, and all records and public archives of the Territory of Nevada shall issue to and vest in the State of Nevada, and may be sued for and recovered in the same manner, and to the same extent, by the State of Nevada, as the same could have been by the Territory of Nevada. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Nevada before the change from a Territorial to a State government, and which shall not be prosecuted before

such change, may be prosecuted in the name and by the authority of the State of Nevada, and with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law, and suits in equity, and all other legal proceedings which may be pending in any of the courts of the Territory of Nevada at the time of the change from a Territorial to a State government, shall be continued and transferred to, and may be prosecuted to judgment and execution in any court of the State which shall have jurisdiction of the subject-matter thereof; and all books, papers and records, relating to the same, shall be transferred in like manner to such court.

§ 5. From the first term of office succeeding the formation of a State government, the salary of the Governor shall be four thousand dollars per annum; the salary of the Secretary of State shall be three thousand six hundred dollars per annum; the salary of the State Comptroller shall be three thousand six hundred dollars per annum; the salary of the State Treasurer shall be three thousand six hundred dollars per annum; the salary of the Surveyor-General shall be one thousand dollars per annum; the salary of the Attorney-General shall be two thousand five hundred dollars per annum; the salary of the Superintendent of Public Instruction shall be two thousand dollars per annum; the salary of each Judge of the Supreme Court shall be seven thousand dollars per annum; the salaries of the foregoing officers shall be paid quarterly out of the State treasury. The pay of State Senators and members of Assembly shall be eight dollars per day for each day of actual service, and forty cents per mile for mileage going to and returning from the place of meeting. No officer mentioned in this section shall receive any fee or perquisites to his own use, for the performance of any additional duty imposed upon him by law.

§ 6. Until otherwise provided by law, the apportionment of Senators and Assemblymen in the different counties shall be as follows, to wit: Storey county, four Senators and twelve Assemblymen; Douglas county, one Senator and two Assemblymen; Esmeralda county, two Senators and four Assemblymen; Humboldt county, two Senators and three Assemblymen; Lander county, two Senators and four Assemblymen; Lyon county one Senator and three Assemblymen; Lyon and Churchill counties, one Senator jointly; Churchill county, one Assemblymen; Nye county, one Senator and one Assemblyman; Ormsby county, two Senators and three Assemblymen; Washoe and Roop counties, two Senators and three Assemblymen.

§ 7. All debts and liabilities of the Territory of Nevada, lawfully incurred, and which remain unpaid at the time of the admission of

this State into the Union, shall be assumed by and become the debt of the State of Nevada: *Provided*, That the assumption of such indebtedness shall not prevent the State from contracting the additional indebtedness, provided in section three of article nine, of this Constitution.

§ 8. The Term of State officers, except judicial, elected at the first election under this Constitution, shall continue until the Tuesday after the first Monday of January, A. D. eighteen hundred and sixty-seven, and until the election and qualification of their successors.

§ 9. The Senators to be elected at the first election under this Constitution shall draw lots, so that the term of one-half of the number, as nearly as may be, shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-six, and the term of the other half shall expire on the day succeeding the election in A. D. eighteen hundred and sixty-eight: *Provided*, That in drawing lots for all senatorial terms, the senatorial representation shall be allotted by the Legislature in long and short terms as hereinbefore provided, so that one-half the number, as nearly as may be, shall be elected every two years.

§ 10. At the general election to be held in A. D. eighteen hundred and sixty-six and thereafter, the term of Senators shall be for four years from the day succeeding such general election, and members of Assembly for two years from the day succeeding such general election; and the term of Senators shall be allotted by the Legislature, in long and short terms, as hereinbefore provided, so that one-half the number, as nearly as may be, shall be elected every two years.

§ 11. The terms of the members of the Assembly elected at the second general election under this Constitution, shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-five; and the terms of those elected at the general election in A. D. eighteen hundred and sixty-five shall expire on the day succeeding the election in A. D. eighteen hundred and sixty-six.

§ 12. The first regular session of the Legislature shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four; and the second regular session of the same shall commence on the first Monday of January, eighteen hundred and sixty-six; and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-seven; and the regular sessions of the Legislature shall be held thereafter biennially, commencing on the first Monday of January.

§ 13. All county officers under the laws of the Territory of Nevada,

at the time when the Constitution shall take effect, whose offices are not inconsistent with the provisions of this Constitution, shall continue in office until the first Monday of January, A. D. eighteen hundred and sixty-seven, and until their successors are elected and qualified; and all township officers shall continue in office, and until their successors are elected and qualified: *Provided*, That the Probate Judges of the several counties respectively, shall continue in office until the election and qualification of the District Judges of the several counties or Judicial Districts: *And provided, further*, That the term of office of the present county officers of Lander county shall expire on the first Monday of January, A. D. eighteen hundred and sixty-five, except the Probate Judge of said county, whose term of office shall expire on the first Monday of December, A. D. eighteen hundred and sixty-four, and there shall be an election for county officers of Lander county at the general election in November, A. D. eighteen hundred and sixty-four; and the officers then elected shall hold office from the first Monday of January, A. D. eighteen hundred and sixty-five, until the first Monday of January, eighteen hundred and sixty-seven, and until their successors are elected and qualified.

§ 14. The Governor, Secretary, Treasurer and Superintendent of Public Instruction of the Territory of Nevada, shall each continue to discharge the duties of their respective offices after the admission of this State into the Union, and until the time designated for the qualification of the above named officers to be elected under the State government; and the Territorial Auditor shall continue to discharge the duties of his said office until the time appointed for the qualification of the State Comptroller: *Provided*, That the said officers shall each receive the salaries and be subject to the restrictions and conditions provided in this Constitution: *And provided further*, That none of them shall receive to his own use any fees or perquisites for the performance of any duty connected with his office.

§ 15. The terms of the Supreme Court shall, until provision be made by law, be held at such times as the Judges of the said courts, or a majority of them, may appoint. The first terms of the several District Courts (except as hereinafter mentioned) shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four; the first term of the District Court in the Fifth Judicial District shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four, in the county of Nye, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-five, in the county of Churchill. The terms of the Fourth Judicial District Court shall, until otherwise provided by law, be held

at the county seat of Washoe county, and the first term thereof be held on the first Monday of December, A. D. eighteen hundred and sixty-four.

§ 16. The Judges of the several District Courts of this State shall be paid, as hereinbefore provided, salaries at the following rates per annum: First Judicial District (each Judge) \$6,000; Second Judicial District, \$4,000; Third Judicial District, \$5,000; Fourth Judicial District, \$5,000; Fifth Judicial District, \$3,600; Sixth Judicial District, \$4,000; Seventh Judicial District, \$6,000; Eighth Judicial District, \$3,600; Ninth Judicial District, \$5,000.

§ 17. The salary of any Judge in said Judicial Districts may, by law, be altered or changed, subject to the provisions contained in this Constitution.

§ 18. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, State Comptroller, Attorney-General, Surveyor-General, Clerk of the Supreme Court, and Superintendent of Public Instruction to be elected at the first election under this Constitution, shall each qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election, and shall continue in office until the first Tuesday after the Monday of January, eighteen hundred and sixty-seven, and until the election and qualification of their successors respectively.

§ 19. The Judges of the Supreme Court and District Judges provided to be elected at the first election under this Constitution, shall qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election.

§ 20. All officers of State and District Judges first elected under this Constitution, shall be commissioned by the Governor of this Territory, which commission shall be countersigned by the Secretary of the same, and shall qualify before entering upon the discharge of their duties, before any officer authorized to administer oaths under the laws of this Territory; and also the State Comptroller and State Treasurer shall each respectively, before they shall qualify and enter upon the discharge of their duties, execute and deliver to the Secretary of the Territory of Nevada, an official bond, made payable to the people of the State of Nevada in the sum of thirty thousand dollars, to be approved by the Governor of the Territory of Nevada; and shall also execute and deliver to the Secretary of State such other or further official bond or bonds as may be required by law.

§ 21. Each county, town, city and incorporated village, shall make provision for the support of its own officers, subject to such regulation as may be prescribed by law.

§ 22. In case the office of any Justice of the Supreme Court, Dis-

trict Judge, or other State officer, shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the Governor until it shall be filled by election for the residue of the unexpired term.

§ 23. All cases, both civil and criminal, which may be pending and undetermined in the Probate Courts of the several counties at the time, when, under the provisions of this Constitution, said Probate Courts are to be abolished, shall be transferred to and determined by the District Courts of such counties respectively. .

§ 24. For the first three years after the adoption of this Constitution, the Legislature shall not levy a tax for State purposes exceeding one per cent per annum, on the taxable property in the State: *Provided*, The Legislature may levy a special tax, not exceeding one-fourth of one per cent per annum, which shall be appropriated to the payment of the indebtedness of the Territory of Nevada, assumed by the State of Nevada, and for that purpose only, until all of said indebtedness is paid.

§ 25. The county of Roop shall be attached to the county of Washoe for judicial, legislative, revenue and county purposes, until otherwise provided by law.

§ 26. At the first regular session of the Legislature, to convene under the requirements of this Constitution, provision shall be made by law for paying for the publication of six hundred copies of the debates and proceedings of this Convention, in book form, to be disposed of as the Legislature may direct; and the Hon. J. Neely Johnson, President of this Convention, shall contract for, and A. J. Marsh, official reporter of this Convention, under the direction of the President, shall supervise the publication of such debates and proceedings. Provision shall be made by law at such first session of the Legislature for the compensation of the Official Reporter of this Convention, and he shall be paid in coin or its equivalent. He shall receive for his services in reporting the debates and proceedings, fifteen dollars per day during the session of the Convention, and seven and one-half dollars additional for each evening session, and thirty cents per folio for one hundred words for preparing the same for publication, and for supervising and indexing such publication, the sum of fifteen dollars per day during the time actually engaged in such service.

ELECTION ORDINANCE.

Whereas, The Enabling Act passed by Congress, and approved March twenty-first, A. D. one thousand eight hundred and sixty-four, requires that the Convention charged with the duty of framing a Constitution for a state government, shall provide by ordinance for

submitting said Constitution to the people of the Territory of Nevada for their ratification or rejection; *Therefore*, This Convention, organized in pursuance of said Enabling Act, do establish the following

ORDINANCE:

SECTION 1. The Governor of the Territory of Nevada is hereby authorized to issue his proclamation for the submission of this Constitution to the people of said Territory for their approval or rejection on the day provided for such submission by act of Congress; and this Constitution shall be submitted to the qualified electors of said Territory, in the several counties thereof for their approval or rejection, at the time provided by such act of Congress; and further, on the first Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-four, there shall be a general election in the several counties of said Territory, for the election of State officers, Supreme and District Judges, members of the Legislature, Representatives in Congress, and three Presidential Electors.

§ 2. All persons qualified by the laws of said Territory to vote for Representatives to the General Assembly on the said twenty-first day of March, including those in the army of the United States, both within and beyond the boundaries of said Territory, and also all persons who may by the aforesaid laws be qualified to vote on the first Wednesday of September, A. D. eighteen hundred and sixty-four, including those in the aforesaid army of the United States, within and without the boundaries of said Territory, may vote for the adoption or rejection of said Constitution on the day last above named. In voting upon this Constitution, each elector shall deposit in the ballot box a ticket whereon shall be written or printed "Constitution, Yes," or "Constitution, No," or such other words that shall clearly indicate the intention of the elector.

§ 3. All persons qualified by the laws of said Territory to vote on the Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-five, including those in the army of the United States within and beyond the boundaries of said Territory, may vote on the day last above named, for State officers, Supreme and District Judges, members of the Legislature, Representatives in Congress, and three Presidential Electors of electoral college.

§ 4. The election provided in this ordinance shall be holden at such places as shall be designated by the Board of Commissioners of the several counties in said Territory. The judges and inspectors of said election shall be appointed by said commissioners, and the said election shall be conducted in conformity with the existing laws of said Territory in relation to holding the general election.

§ 5. The judges and inspectors of said election shall carefully count each ballot immediately after said election, and forthwith make duplicate returns thereof to the Clerks of the said County Commissioners of their respective counties, and said Clerks within fifteen days after said election shall transmit an abstract of the votes, including the soldiers' vote as herein provided, given for State officers, Supreme and District Judges, Representatives in Congress, and three presidential electors, inclosed in an envelope, by the most safe and expeditious conveyance, to the Governor of said Territory, marked "Election returns."

§ 6. Upon the receipt of said returns, including those of the soldiers' vote, or within twenty days after the election, if said return be not sooner received, it shall be the duty of the Board of Canvassers, to consist of the Governor, United States District Attorney, and Chief Justice of said Territory, or any two of them, to canvass the said returns in the presence of all who may wish to be present, and if a majority of all the votes given upon this Constitution shall be in its favor, the said Governor shall immediately publish an abstract of the same, and make proclamation of the fact in some newspaper in said Territory, and certify the same to the President of the United States, together with a copy of the Constitution and ordinance. The said Board of Canvassers, after canvassing the votes of the said November election, shall issue certificates of election to such persons as were elected State officers, Justices of the Supreme and District Courts, Representatives in Congress, and three Presidential Electors. When the President of the United States shall issue his proclamation declaring this State admitted into the Union on an equal footing with the original States, this Constitution shall thenceforth be ordained or established as the Constitution of the State of Nevada.

§ 7. For the purpose of taking the vote of the electors of said Territory who may be in the army of the United States, the Adjutant-General of said Territory shall, on or before the fifth day of August next following, make out a list in alphabetical order, and deliver the same to the Governor, of the names of all the electors, residents of said Territory, who shall be in the army of the United States, stating the number of the regiment, battalion, squadron or battery to which he belongs, and also the county or township of his residence in the said Territory.

§ 8. The Governor shall classify and arrange the aforesaid returned list, and shall make therefrom separate lists of the electors belonging to each regiment, battalion, squadron and battery, from said Territory in the service of the United States, and shall, on or before the fifteenth day of August following, transmit, by mail or otherwise, to the commanding officer of each regiment, battalion, squadron and battery, a

list of electors belonging thereto, which said list shall specify the name, residence and rank of each elector, and the company to which he belongs, if to any, and also the county and township to which he belongs, and in which he is entitled to vote.

§ 9. Between the hours of nine o'clock A. M. and three o'clock P. M., on each of the election days hereinbefore named, a ballot box, or suitable receptacle for votes, shall be opened, under the immediate charge and direction of three of the highest officers in command, for the reception of votes from the electors whose names are upon said list, at each place where a regiment, battalion, squadron or battery of soldiers from the said Territory, in the army of the United States, may be on that day, at which time and place said electors shall be entitled to vote for all officers for which, by reason of their residence in the several counties in the said Territory, they are authorized to vote, as fully as they would be entitled to vote in the several counties or townships in which they reside, and the votes so given by such electors at such time and place, shall be considered taken and held to have been given by them in the respective counties and townships in which they are resident.

§ 10. Each ballot deposited for the adoption or rejection of this Constitution, in the army of the United States, shall have distinctly written or printed thereon, "Constitution, Yes," or "Constitution, No," or words of a similar import; and further, for the election of State officers, Supreme and District Judges, members of the Legislature, Representatives in Congress, and three Presidential Electors. The name and office of the person voted for shall be plainly written or printed on one piece of paper. The name of each elector voting as aforesaid shall be checked upon the said list at the time of voting, by one of the said officers having charge of the ballot box. The said officers having charge of the election shall count the votes and compare them with the checked list immediately after the closing of the ballot box.

§ 11. All the ballots cast, together with the said voting list checked as aforesaid, shall be immediately sealed up and sent forthwith to the Governor of said Territory, at Carson City, by mail or otherwise, by the commanding officer, who shall also make out and certify duplicate returns of votes given, according to the forms hereinafter prescribed, seal up and immediately transmit the same to the Governor at Carson City, by mail or otherwise, the day following the transmission of the ballots and the voting lists herein named. The said commanding officer shall also immediately transmit to the several County Clerks in said Territory an abstract of the votes given at the general election in November for county officers, marked "Election returns."

§ 12. The form of returns of votes, to be made by the commanding officers to the Governor and County Clerks of said Territory, shall be in substance as follows, to wit :

“Returns of soldiers’ votes in the (here insert the regiment, detachment, battalion, squadron or battery).

(For first election—on the Constitution.)

I, ———, hereby certify that on the first Monday of September, A. D. eighteen hundred and sixty-four, the electors belonging to the (here insert the name of the regiment, detachment, battalion, squadron or battery) cast the following number of votes for and against the Constitution for the State of Nevada, viz. :

For Constitution (number of votes written in full and in figures).

Against Constitution (number of votes written in full and in figures).

(Second election — for State and other officers.)

I, ———, hereby certify that on the first Tuesday after the first Monday in November, A. D. eighteen hundred and sixty-four, the electors belonging to the (here insert as above) cast the following number of votes for the several officers and persons hereinafter named, viz. :

For Governor (names of persons voted for, number of votes for each person voted for written in full, and also in figures, against the name of each person).

For Lieutenant-Governor (names of candidates, number of votes cast for each written out and in figures, as above).

(Continue as above until the list is completed).

ATTEST :

I, A. B., commanding officer of the (here insert the regiment, detachment, battalion, squadron or battery, as the case may be).”

§ 13. The Governor of this Territory is requested to furnish each commanding officer within and beyond the boundaries of said Territory proper and sufficient blanks for said returns.

§ 14. The provisions of this ordinance in regard to the soldiers’ vote shall apply to future elections under this Constitution, and be in full force until the Legislature shall provide by law for taking the votes of citizens of said Territory in the army of the United States.

Done in Convention, at Carson City, the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-four, and the independence of the United States the eighty-ninth, and signed by the Delegates.

J. NEELY JOHNSON,

President of the Convention, and Delegate from Ormsby county.

WM. M. GILLESPIE, *Secretary.*

[Delegates to Convention. Those marked with a star did not sign the Constitution, as officially published.]

Churchill.

Nelson E. Murdock.*

Douglas.

J. W. Haines,
Albert T. Hawley.

Esmeralda.

B. S. Mason,
J. G. McClinton,
D. Wellington,*
William Wetherill.*

Humboldt.

James A. Banks,
E. F. Dunne,
William Henry Jones.*

Lander.

E. A. Morse,*
J. H. Warwick,
R. H. Williams.*

Lyon.

J. S. Crosman,
George A. Hudson,
Francis H. Kennedy,
H. G. Parker.

Nye.

Francis M. Proctor,
Francis Tagliabue.

Ormsby.

Israel Crawford,
George L. Gibson,
J. Neely Johnson,
J. H. Kinkadee,
A. J. Lockwood.

Storey.

Nathaniel A. H. Ball,*
Cornelius M. Brosnan,
Samuel A. Chapin,
John A. Collins,
Josiah Earl,*
Thomas Fitch,
Lloyd Frizell,
Almon Hovey,
Charles N. Tozer.*

Washoe.

W. W. Belden,
H. B. Brady,
Gilman N. Folsom,
George A. Nourse,
James H. Sturtevant.*

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